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ABSTRACT

The report examines the impact of the Pennsylvania Association for Retarded Children (PARC) on handicapped children's rights to appropriate education in the state of Pennsylvania. An introductory section looks at such problems as the misclassification of children, disproportionate racial representation in the mildly handicapped population, and the permanency of placement. The mandates of P.L. 94-142 (the Education for All Handicapped Children Act) and the PARC agreement are reviewed. Chapter II outlines research procedures used to find out whether Pennsylvania's school psychologists (n=178) believed their school systems had changed as a result of the reform, to find out how school psychologists saw their own role changing after the signing of the Consent Decree, and to account for variations in the amount of self reported change. A third chapter presents school psychologists' understanding of how their systems have changed since the Consent Decree was signed and describes their reports of its impact on their own professional activities. Chapter IV attempts to account for the reasons some school psychologists reported changing aspects of their role following the Consent Agreement, while others did not. Chapters V and VI examine due process under PARC from two different perspectives--the due process hearings for individual justice and the administrative appeals procedure for class justice. Among appendixes are a copy of an article titled "PARC--A Case Study of the Initial Implementation of a Major Attempt to Reform Special Education through Law," a sample psychologist's form for the special education survey, a due process coding instrument and manual, and parents' and schools' argument used in the first 168 due process hearings under PARC. (SBH)

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FINAL REPORT

WHEN HANDICAPPED CHILDREN GO TO COURT: ASSESSING THE IMPACT OF THE LEGAL REFORM OF SPECIAL EDUCATION IN PENNSYLVANIA

National Institute of Education Project No. Neg.-003-0192:
Student Classification and the Law

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PREFACE

In 1971 the Pennsylvania Association for Retarded Children sued the Commonwealth of Pennsylvania on behalf of retarded children who were either excluded from public school, misassigned to special education programs, or assigned to programs of doubtful merit. The resulting Consent Decree (PARC) became a legal landmark. PARC created a substantive right to a free, appropriate public education, in the most normal setting possible, for all retarded children. It also created a procedural right to an impartial hearing, allowing parents of such children to contest a school's classification or placement decision. These dramatic innovations captured the imagination of child advocates throughout the country, and resulted in a spate of suits and legislative reforms that culminated in the passage by Congress of the Education for All Handicapped Children Act of 1975: PL 94-142.

Modelled almost exactly on PARC, PL 94-142 was one of the major pieces of social legislation passed during the 1970s. By adopting PARC's right to an appropriate education, PL 94-142 attempted to foster general justice for all of America's handicapped children. By adopting PARC's procedural right to due process, it sought to provide parents with a means of seeking individual justice for their own children. As a result of both its "interrorum" effects, and its appeals procedures, however, due process also contained the potential, at least, for promoting general justice. Thus PL 94-142 went far beyond providing new funds for special education to states already burdened by the costs of regular education. By making federal aid contingent on the adoption of elaborate educational practices and procedural safeguards, the law intruded the federal government further than ever before into the everyday management of the schools.

It is too early to know whether the rights granted under PL 94-142 have resulted in more justice for handicapped children. Five years' of research into the impact of the PARC Agreement, however, suggest some useful hypotheses about the course of PL94-142 implementation.

This report examines PARC's impact from four different perspectives. Two of these focus on school psychologists, the school people most central to the success of the reform. After an introductory section, we explore psychologists' perceptions of PARC's impact on both the systems they work for and their own professional behavior. As the only educators authorized by law to conduct psycho-educational evaluations and reevaluations, they effectively controlled classification and placement decisions. Since they were also the only people in the system who were in contact with all handicapped children, they were in the best position to know what was going on generally, at a system-wide level. But this centrality also meant that they held the fate of the reform in their hands: they were

Weatherby and Lipsky's "street level bureaucrats," whose adaptation to the demands of the reform and whose willingness to alter aspects of their role would determine its success. After the chapters describing their perceptions of PARC's impact, we therefore devote a further chapter to an attempt to account for the reasons some school psychologists reported changing aspects of their role following the Consent Agreement, while others did not.

In Part III, we examine due process under PARC from two different perspectives. In the first chapter, we describe what happened in the hearings during the first four years of the reform. In this way we discover if the hearings functioned effectively as a truth-determining device. We conclude that the elements commonly associated with the success of the adversary process--representation by counsel, the use of expert witnesses, and cross-examination, for example--do help to explain variations in the ways hearing officers decided cases. In other words, parents who used the hearings in a rational fashion were able to influence their outcome.

The hearings would remain nothing more than rather expensive vehicles for individual justice, however, unless the appeals that flowed from them resulted in a coherent body of judicial precedent. Beyond that, no matter how carefully appeals decisions were shaped, if they were undermined by parallel appeals to state and federal courts--appeals that ignored the formal review procedures built into the reform--they might prove of little help to educators forced to make difficult decisions in the face to conflicting organizational and parental demands. In the final chapter, we examine emergence of a new legal system under PARC raising serious questions about its current capacity to foster a more general form of class justice for handicapped children in Pennsylvania.

As with any project of this size, so many people helped, it would be impossible to thank them all. Of course, certain people deserve special thanks, having rendered service above and beyond any reasonable call of friendship. Professor Arthur Dole and Dr. Bart Cardon certainly fit that category, having provided important criticism after taking the time to wade through drafts of this report. So does Dr. James Diamond, who consulted with us for many hours, largely without compensation, on methodological and statistical matters. A different kind of aid was provided by Professor Herbert Goldstein and Mr. Dennis Haggerty, esq., the two Masters appointed by the Court to oversee implementation of the PARC Agreement. Without their cooperation, as well as that of F. John Hagele, attorney for the Pennsylvania Association for Retarded Children, and Lawrence Selkewitz, Deputy Attorney General in charge of PARC for the Commonwealth of Pennsylvania, it would not have been possible to obtain the transcripts of the due process hearings, or to gain access to other types of sensitive information that enabled us to develop an understanding of the evolving story of implementation throughout the state.

We are also indebted to three institutions: Hebrew University's School of Education, where Peter Kuriloff spent a sabbatical year during 1976 and 1977; The Van Leer Foundation of Jerusalem, where David Kirp was a Visiting Fellow in the Spring of 1977; and the University of Pennsylvania's Graduate School of Education. We are grateful to the staffs of all three organizations, in particular to Dean Seymour Fox of Hebrew University and Dean Dell Hymes of the University of Pennsylvania.

Finally, if there is a semblence of order in our files, our data, and indeed, in the research as a whole, it is in no small measure due to the tireless and creative efforts of Louise George, the Project's Administrative Assistant. She, more than anyone else, deserves our special gratitude.

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PART I: INTRODUCTION

CHAPTER I

HANDICAPPED CHILDREN GO TO COURT (AND TO CONGRESS)

Handicapped children form an extraordinarily diverse group estimated to include between 8 and 35% of the entire American student population (New York Commission on the Quality, Cost and Financing of Elementary and Secondary Education, 1972). From the viewpoint of the general educator, all that the handicapped have in common is that they differ from normal people. Some have problems so severe that the need for special educational attention is self-evident. They literally cannot survive without constant assistance (Kirk, 1964). The learning deficiency of most handicapped children, however, is slight and often hard to detect (Dunn, 1968; Rubin, Simson & Betwee, 1966). Children who systematically write letters backwards, write in mirror fashion or drop letters and even whole words in reading, are common in elementary school. In many cases, children who have physical disabilities which could interfere with schooling might not be distinguished by school officials from their supposedly normal classmates. Children with slight loss of hearing or sight can often compensate for their difficulties and thus go undetected until a systematic screening program is introduced, as can children with psycholinguistic learning disabilities. Other children, whose serious physical disabilities prevent them from getting around schools easily, have no intellectual impairment at all.

Until very recently, state laws typically denied the most severely handicapped children any rights to publicly supported education. Such laws empowered school psychologists to determine whether children were "ineducable". Once classified ineducable, children were excluded from public schools (Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania [PARC], Note 1). For less seriously handicapped youngsters, states developed a bewildering variety of special categories distinguishing both type of handicap (e.g., blindness vs. retardation) and severity of handicap (e.g., educable vs. trainable retardates). Children so classified received a variety of programs and services ranging from minimal, short term tutoring to fulltime participation in special classes (Brison, 1967; Goldstein, Arkell, Ashcroft, Hurley & Lilly, 1975; Rossmiller, 1972). Unfortunately, these programs were often as spotty, unsystematic, and ineffective as they were diverse.

The late 1960's witnessed dramatic changes in the way public schools educated exceptional children. The roots of these almost revolutionary changes grew out of a unique confluence of social forces. When the Supreme Court ruled in Brown vs. the Board of Education (Note 2) that "Today, education is perhaps the most important function of the state and local governments . . . . [and] where the state has undertaken to provide it, [it] is a right which must be available to all on equal terms" (p. 493), it did more than end legal segregation in the public schools. It created a vehicle for representatives of every type of downtrodden, alienated, and discriminated against child to seek redress through the courts. In the late 1950's and early 1960's "equal educational opportunity" was used primarily by Black citizens to gain a better status in society, but by the late 1960's, representatives of exceptional children also began to see it as an instrument for the much needed reform of special education.

Of course the civil rights movement which followed in the wake of Brown created a favorable climate for legal activism on behalf of such children. That militancy was particularly necessary for retarded individuals has been demonstrated repeatedly by research on social distance. These studies show that Americans have greater apprehension about contact with the retarded than with members of any other group, including people from racial, religious, and disabled minorities (Dent, Dole & Gaston, 1966). This reluctance on the part of the general public to deal with problems of retardation was a major stumbling block to reform for all exceptional children until the Kennedy years. The President's general compassion and specific willingness to discuss his own family's experience with retardation began to alter longstanding attitudes and to focus public attention on the plight of the retarded. Later, Vice President Humphrey's appearances on national television with his retarded grandchild continued this process. These subtle changes in the public attitude were supported by a growing body of research evidence which brought into question many traditional educational practices involving both severely and mildly handicapped children.

The Severely Handicapped

The practice of classifying severely handicapped children as ineducable and excluding them from publicly supported education proved inconsistent with research findings that all children are educable when educability is defined as able, through instruction, to move from relative dependence to relative independence. Advances in behavior modification techniques made it possible to do some training with even the most profoundly retarded children. This finding was made all the more compelling by the complimentary discovery that retarded children, unlike their normal peers, tend to regress when their education is stopped or even interrupted for a little while (Note 1). Many of these seriously handicapped children--estimated to number between 450,000 and 4,000,000--spent their entire lives in state run institutions which, while providing minimal care, lacked the resources necessary to undertake any training in self-help. Private schools licensed by the states did train children with specific handicaps. Because these schools were self-supporting, they generally enrolled only children from well-to-do families. Although a few states did seek to alleviate this fiscal inequity by providing vouchers for handicapped youngsters, the burden of caring for the most severely handicapped still fell most heavily upon the poor, the group least able to sacrifice the time and energy needed to ensure adequate educational help.

Even when the public schools did provide some instructions for the severely handicapped, critics argued that they did not do enough. Autistic children, for example, required costly, highly structured, professionally staffed programs. Placing autistic children in any other type of program was viewed as the functional equivalent of excluding them from school (Tidewater Society for Autistic Children vs. Tidewater Board of Education, Note 3). Such criticisms of the education of severely handicapped children viewed the public schools as doing too little or nothing at all for this group. The remedies suggested by the critics were both to make available additional resources for existing programs and to create new programs for hard to educate children.

The Mildly Handicapped

The questions evoked by the schools' treatment of mildly handicapped children, however, were quite different. Their programs were faulted for a host of reasons: They misclassified students, contained a disproportionate share of minority group children, appeared educationally ineffective, and all too readily became permanent assignments.

Misclassification

The term misclassification was used to describe two quite different phenomena. First, it denoted the misapplication of agreed upon criteria. When, for example, the school violated state law by assigning a student with a 100 IQ to a class for the mildly retarded, misclassification occurred. But the problem of misclassification could be considerably more complex if the criteria for classification were more subjective than IQ--involving, for example, teacher judgment, student readiness and motivation. Second, misclassification was also used to denote disputes over how data were gathered so that established criteria could be applied. Even when a school could consistently distinguish between handicapped and normal students on the basis of a particular test, the test itself might be inadequate or susceptible to multiple interpretations. Many documented instances of misclassification were of this kind. In Washington, D.C., for example, the school system concluded that up to two-thirds of its mildly handicapped students were, in fact, normal (Hobson vs. Hansen, Note 4). This reversal in judgment resulted from the substitution of individually administered IQ tests for group "aptitude" tests. Similarly, a study of 36 Philadelphia area school districts using multiple tests of social, emotional and physical development as well as intellectual development, indicated that up to two-thirds of the children in classes for the mildly retarded were misclassified (Garrison & Hammil, 1971). Critics also questioned the appropriateness of using English language tests to place non-English speaking people in special programs. They argued that such tests can determine only the extent of aculturation, and not the degree of ability (Diana vs. State Board of Education, Note 5).

The suggested remedy for improper measurement was the adoption of different testing methods including the use of individually administered tests in the native language of the testee, as well as the adoption of multiple instruments and instruments measuring important areas of development beyond the purely intellectual. The critics also suggested that erroneous placements could be reduced by improving the decision making procedures which implemented the findings of psychological assessments. Ideas have included inclusion of parents in the process as well as development of a team approach that mediates and perhaps softens the traditional power of the school psychologist.

Disproportionate Racial Representation

Evidence also began to accumulate that certain types of students were more vulnerable to special class assignment than others. Researchers discovered that among children with the same IQ only some were ever even considered for special programs and that these did not represent a random sample of the student population. Students who made life difficult for regular class teachers were more likely to have their normal status questioned (Mercer, 1973). More boys than girls, and more aggressive than quiesent students, were identified as possibly handicapped (Frazier & Sadler, 1973; Mercer, 1973). Researchers also discovered that white students typically had to display both intellectual and behavioral deficits to be considered for assignment to special classes while intellectual difficulties alone were sufficient to evoke a referral for Black or Chicano students (Mercer, 1973). Careful examination revealed that non-white students more often were over-represented in programs for the mildly handicapped, sometimes by as much as 250% (relative to their proportion of the school age population)--a finding that caused considerable political concern (Dunn, 1968; Kirp, 1973; Zito & Bardon, 1969). Over representation diminished school integration and may well have diminished the educational opportunities of minority students. Certainly it called into question the legitimacy of the entire system of special education classification and linked the rights of retarded children directly with the rights of racial minorities--groups that had developed much expertise in demanding equal treatment from society.

Critics argued that differential vulnerability not only led schools to underestimate the educational potential of minority students, but also caused them to ignore the special needs of students who were not disruptive in class. Suggested remedies included early and thorough evaluation of all students, procedural protections so that nonproblematic children were not overlooked and children particularly vulnerable to classification were not wrongly singled out, as well as the integration of minority and white students either by abolishing special programs for mildly handicapped or by setting racial quotas for such programs.

Educational Ineffectiveness

For many years psychologists and special educators had examined the efficacy of programs for the mildly handicapped. Results were mixed at best. Studies comparing the performance of matched groups of students in regular and special programs generally concluded that despite additional resources in special programs, special classes generally have either no effect or a slightly adverse effect both on the motivation and the achievement of students assigned to them (Dunn, 1968; Flor, 1978; Rubin, Simson, & Betwee, 1966). Furthermore, although little research demonstrated it, critics continually argued that assignment of children to special education imposed a stigma of differentness on them without securing offsetting benefits

(Jones, 1972; Zito & Bardon, 1969). Only in those rare instances where children with distinct learning disorders were identified early in their educational careers and assigned to technically sophisticated special education teachers did these classes appear to succeed.

To some the demonstrated lack of success of most special education programs argued for their abandonment and for the adoption of careful strategies to ease the transition of most, if not all, mildly handicapped children into regular classes. Here, the remedy was seen as a substantial dimunition of the number of mildly handicapped children in special education classes, through the vigorous implementation of the presumption "that regular classes are preferable to special classes" and the demand that schools must make a convincing argument whenever they wish to override this principle of "normalization" when placing a particular child.

Permanency of Placement

Finally, although schools usually argued that the assignment of children to classes for the mildly handicapped was temporary, and that the ultimate goal was to return such children to regular classes, research showed that special class placement often became permanent placement. One survey of urban school systems found that fewer than 10% of the children classified as mildly handicapped ever returned to regular classes (Gallagher, 1972). The suggested remedies here included "mainstreaming"--the integration of "special" children with normal children, facilitated by the provision of supportive services--coupled with regular review of reduced special class placements for children for whom mainstreaming was initially unfeasible, and a commitment to return even those students to the regular program as soon as possible.

Special Education and the Law

In the social context of the 1960's activist lawyers representing handicapped children began to use the courts to secure the reforms special education's critics believed necessary to remedy its most glaring faults. The results were dramatic. They obtained rulings and agreements which insisted on the provision of public education for all children no matter how seriously they were handicapped (Note 1), required the development of "appropriate" or "suitable" curricula for exceptional children (Notes 1 and 6), granted due process together with other precedural protections to a wide variety of exceptional children (Notes 1, 3 and 6), outlawed the over-representation of minority children in special classes (Note 7), required school psychologists to classify children on the basis of individual psychological assessments (Note 7), and demanded that such assessments be conducted in the language of the child (Notes 5, 8, and 9). Meanwhile, similar reforms were being obtained through legislative acts (see, for example, Massachusetts General Laws, Note 10, and California Educational Code, Note 11). However, it was not until the passage of the Education of All Handicapped Children Act of 1975 (Note 12) that the various piecemeal changes initiated by courts and legislatures culminated in a single coherent nationwide policy.

Education for All Handicapped Children Act of 1975: Public Law 94-142

PL 94-142 created two kinds of rights for exceptional children residing in states that agreed to accept federal aid for special education under its provisions. First, it established a substantive right to "appropriate" education. It sought to foster this right through the creation of general principles, the development of elaborate bureaucratic regulations, the demand for extensive record-keeping, and the requirement of regular review of all children placed in special classes. Its underlying assumption was that to the extent these mechanisms are faithfully employed, "general" justice would be served--i.e., all children would be afforded equal educational opportunity. Second, recognizing the importance of the right to education, PL 94-142 sought to protect children from arbitrary acts of states which might infringe it, by providing children with elaborate procedural protections. The most dramatic of these was the right to an impartial hearing for parents dissatisfied with schools' classification or placement decisions. While due process is preeminently a vehicle for achieving "individual" justice, it may also have salubrious general effects. It is easy to imagine that the prospect of a hearing might govern the otherwise capricious behavior of school officials. Certainly, the idea that they may be cross-examined about their knowledge and methods in a public, quasi-judicial forum must sober school psychologists--the professionals most usually responsible for classification decisions. Beyond these "in terrerum" effects, due process will serve general justice to the extent it results in an evolving system of precedent which actually becomes a practical guide for educational decision making.

The Right to Appropriate Education. PL 94-142 seeks to ensure that all exceptional children will receive an appropriate education by requiring participating states to develop a systematic plan to locate, evaluate, and institute individual educational programs for them. To meet the problem of misclassification and differential vulnerability, the law requires that evaluations be carried out using nondiscriminatory, "culture fair" tests and, wherever possible, that testing be done in the native language of the child. Furthermore, it specifies that no single procedure may be used as the criterion for classification. It then demands that these broad psychoeducational evaluations be used to develop an individualized educational plan (IEP) for each child. It requires that each plan must contain a written statement, developed in a meeting with a representative of the local educational authority qualified to provide special education, the child's teacher, the child's parent or guardian, and whenever possible, the child him or herself. The written IEP must include a statement about the child's present level of educational functioning, annual educational goals including short term measurable objectives, specific services to be provided, and the extent of normalization to be achieved. Furthermore, the projected date for the initiation of services as well as their anticipated duration must be spelled out. Finally, the IEP must include objective criteria as well as evaluation procedures for determining, on at least an annual basis, if the objectives are being achieved. Thus, the IEP is at once both a direct attempt to require substance in programs often accused of being ineffacacious, and a check against such programs becoming permanent. Furthermore, by drawing specific attention to "normalization", the IEP reveals Congresses' intention to elevate it to an operating principle of education for exceptional children.

Right to Due Process. Recognizing that potentially serious harm can come to children who are wrongly identified, classified or placed, PL 94-142 provides them with a number of procedural safeguards. Since the evidence for such decisions, including psychological evaluations, is found in a child's school records, parents now have the right to examine them. They also have the right to obtain an independent evaluation if they think it is necessary. If a child does not have a parent to protect his or her interest, PL 94-142 requires the appointment of a surrogate. When the school decides to initiate a change in the identification, evaluation, placement or appropriate education of a child, or refuses to initiate one demanded by parents, it must inform the parents in writing of its decision. Such written notice must, wherever possible, be in the native language of the parents. The school is then required to provide parents with an opportunity to argue against the decision. If the school remains unconvinced, the parents have a right to a due process hearing presided over by an impartial hearing officer. To prevent possible conflicts of interest a hearing officer may not be an employee of the district involved. During the hearing, to be held within a reasonable amount of time after parents initiate it, parents have a right to be represented by counsel, to call witnesses, to present evidence, to confront and cross-examine witnesses from the other side, and to compel the attendance of school personnel. Parents have the option of closing the hearing to the public. They must be provided with a written transcript of the hearing within a reasonable length of time. Finally, they as well as the school, have the right to appeal an unfavorable decision first to the state educational agency and then to an appropriate state or federal court.

These procedures are extremely elaborate, especially for an educational context (Buss, 1971) and provide parents with an unprecedented means of seeking individual justice. In the words of Thomas Gilhool (1973) they represent a ". . . new forum [which] for the first time in American education offers an opportunity for the parent in a formal and defined fashion to hold schools accountable for the nature of the education program offered his child" (pp. 126-127). But Gilhool also believed that the ultimate outcome of individual appeals would be a significant systemwide improvement in the quality of education received by all exceptional children.

Whether either the substantive or procedural rights embodied in PL 94-142 are actually producing either individual or general justice, is of course, an important empirical question. While it is much too early for research to be able to provide a direct answer, an intensive investigation by the University of Pennsylvania's Project on Student Classification and The Law into the impact of a landmark case

(Pennsylvania Association for Retarded Children vs. the Commonwealth of Pennsylvania, Note 1), which is analogue to PL 94-142 in almost every important respect, provides the necessary data for some useful first approximations.

Pennsylvania Association for Retarded Children vs. the Commonwealth of Pennsylvania: The PARC Agreement

Prior to 1971, Pennsylvania, as most other states, required all children between the ages of eight and 17 to attend school, but it made an exception of any child judged by a school psychologist to be "unable to profit from further school attendance" or deemed "ineducable or untrainable" (Note 13). Such children were excused, or more precisely, excluded from public schools. In practice this exception doomed severely retarded children to lives in institutions which typically provided no education, or in their own homes, where their "education" represented an added problem to already overburdened parents. In 1971 the Plaintiffs in the PARC case filed suit against the Commonwealth of Pennsylvania and its responsible agencies, challenging the constitutionality of excluding severely retarded children. They asserted the state's failure to offer any educational opportunities to severely retarded children was a denial of equal protection and that assignment of children to any level of programs for the retarded without prior notice and the opportunity of a hearing was a denial of due process of law.

The three judge federal district court did not have to rule on the constitutional merits of the suit. After a day of testimony in which the accumulated weight of much research evidence created a convincing argument that no child is ineducable, that behavior modification techniques make even the most severely retarded child accessible to some improvement, that retarded children tend to regress seriously when their education is even temporarily interrupted, and finally, that many children in EMR classes are misclassified, the State agreed to settle the case.

While the parties settled without the court ruling on the constitutional merits of the case, the resulting Consent Agreement[1] generated suits and reform legislation across the country and culminated in PL 94-142. Like it, PARC embraced two different types of reform.

Appropriate Education under PARC. The Consent Decree afforded all retarded children the right to an "appropriate" free public education and required the state to identify and locate all previously excluded children (Pennsylvania State Departments of Education and Public Welfare, 1972a). Where the state provided preschool programs for normal children, it had to develop programs of equal scope and quality for mentally retarded children. Similarly, homebound instruction could not be denied to retarded children because they lacked an identifiable physical disability or because their disability was chronic in nature (as the law had previously stipulated). Finally, mentally retarded children were entitled to the same tuition maintenance as other exceptional children in public or private schools or institutions when an appropriate program could not be found at the district or intermediate unit[2] level (Kirp, Kuriloff, Buss, 1975).

While the decree did not define appropriateness, it did declare that regular class placement was preferable to special class placement and special class placement was preferable to other approaches (such as homebound instruction or institutionalization). This is the same principle of "normalization" which found its way into PL 94-142. But PARC went beyond PL 94-142 in requiring the state to stipulate minimal curricular standards for special education programs. These were to be developed by the Department of Education in consultation with the Association for Retarded Children. Unlike PL 94-142, the Constant Agreement also called for a statewide plan specifying the range and number of programs necessary to provide an appropriate education for all retarded children, where the programs would be located, their financing, and their staffing. The actual plan (Pennsylvania State Departments of Education and Public Welfare, 1972b), while falling short of meeting these requirements (Kirp, Kuriloff, Buss, 1975) did require that each child have a program designed to meet the full range of his or her exceptionalities--a result once again reflected in PL 94-142. Schools were required to establish behavioral goals for each child, and to specify an individualized curriculum (like an IEP) designed to meet them. Additional services (such as speech therapy, physical therapy, vocational counseling, and psychotherapy) were to be mobilized to help meet the goals.

In order to ensure proper classification and placement, PARC, like PL 94-142, required local districts to undertake thorough, systematic medical and psycho-educational evaluations of excluded children as well as reevaluations of those already in special classes. Furthermore, it insisted on including automatic bi-annual reevaluation, annual reevaluation at parental request, and reevaluation at every program change to minimize the danger of arbitrary and inappropriate decisions. School psychologists were required to carry out these evaluations and reevaluations in a very comprehensive manner. While they could choose among many tests, they had to assess social, emotional, physical, and perceptual development as well as intellectual development (Pennsylvania State Departments of Education and Public Welfare, 1972a).

Due Process under PARC. But the most dramatic safeguard granted first by PARC, and later by PL 94-142, was the right to due process. Prior to this second major kind of reform, parents were not always informed of school's placement decisions. Often they did not have access to their childrens' records. Seeking to minimize "red tape", some schools did not even maintain adequate records. Of course, to a greater or lesser extent, parents always have had the right to object to schools decisions and depending on the parents' power, schools were more or less responsive. But almost no schools provided parents with a formal recourse, in which they could present a rational counter, supported by alternative evidence and expert opinion, to the schools' decisions.

PARC remedied this situation by giving parents of retarded children the opportunity to object to unfavorable school decisions in due process hearings presided over by impartial hearing officers.

Hearing officers were to be psychologists or special educators appointed by the Secretary of Education in consultation with the Pennsylvania Association of Retarded Children. They were chosen from among employees of school systems and intermediate units as well as from colleges and universities. To avoid obvious conflicts of interest, they could not hear cases originating in districts in which they worked.

The other procedural safeguards included within PARC's definition of due process also were later incorporated into PL 94-142. Parents had a right to adequate written notice before any change in their child's placement (including the addition to or delection from their program of such ancillary services as speech and hearing) to see their child's record, to compel school officials to testify, to call and cross-examine witnesses, and to be represented by an attorney or other person of their own choosing. The hearing had to be scheduled 15 to 30 days after the parent's request at a time and place convenient to them. The hearing itself had to be open to the public unless the parents specifically requested it to be closed. A written transcript had to be made, and the hearing officer had to base his or her findings on it.

In a due process hearing under PARC, as in PL 94-142, the initial burden "to go forward" was to be met by the school when it presented a program it recommended as "approrpriate" to the educational needs of the child. Once the school showed it had done an evaluation resulting in the proposed program, the parents had to demonstrate its inadequacies. While they did not necessarily have to present a better alternative, obviously this could strengthen their case. Once the hearing officer had listened to both sides, he or she had to determine if there was "substantial evidence on the record as a whole" to support the need for a change in the child's placement, the adequacy of the general type of education proposed, and the sufficiency of the particular facilities, personnel and resources contemplaced (Notes 1, 14, 15, and 16). AFter the hearing officer rendered a decision, parents had the right to appeal it to the Secretary of Education and then to Commonwealth Court.

Assessing the Impact of Legal Reform: PARC as Model of PL 94-142

Because PARC and PL 94-142 are so similar, research into the impact of the Pennsylvania reform offers a unique opportunity to understand the possible vicissitudes of what one writer (Pittenger, Note 17) had called the major piece of social legislation in this decade. Has the creation of a substantive right to education in Pennsylvania enhanced the educational opportunities of its retarded children? Have the evaluation and classification procedures used to place them become broader and less biased? Have parents been notified that such procedures were taking place? More generally, have they gained greater influence over the educational decision-making process affecting their children? Are retarded children now profiting from a free public education, individualized to meet their particular needs and yet structured so they receive it in the most normal setting possible?

Have school systems developed the programs and services necessary to make such individualized programs into realities? In short, to what extent has PARC become an effective vehicle for generalized justice in Pennsylvania? Answers to such questions should go a long way toward helping us assess the potential effects of the equally elaborate substantive provisions of PL 94-142. How affirmative the answers are may, in large measure, depend upon the compliance of key educational personnel. Do they share the new view of retarded children inherent in the reform? Do they understand its other key provisions? Have they developed a child oriented approach to placement and program planning? More broadly, have they altered key aspects of their roles to accommodate the new law? Is it possible to account for such changes?

Answers to a similar set of questions about PARC's major procedural innovation should give us a sense of the fate of due process hearings mandated by PL 94-142. Have the hearings in Pennsylvania been widely used? Have those using them been able to affect their children's education? Can parents who "won" their cases be distinguished from those who "lost" on the basis of aspects of their performance arguably relevant to the traditional functions of due process? Have the hearings, in short, become the rational, truth determining device Mr. Justice Holmes envisioned when he called due process the legal analog of the scientific method? Beyond fostering individual justice, have the Pennsylvania hearings resulted in the development of precedents which in anyway resemble a generalized framework for just educational decision-making?

The problems posed by asking such questions in the context of a reform as complex as PARC, in a state as large as Pennsylvania, are obvious: how can they be answered sensibly in a reasonable amount of time given a limited amount of resources? The approach we choose involved three separate methods. First, we sought to gain a very general overview of the initial impact of the reform through interviews with key actors statewide. These findings have been reported earlier (Kirp, Kuriloff, & Buss, 1975; for a summary, see also Appendix I, p. 1 below). Second, we assessed the result of its substantive requirements as seen through the eyes of school psychologists.

We choose psychologists because, more than any other educational professionals they were crucial to the successful implementation of the PARC Agreement. They were the ones who had the legal responsibility to evaluate potentially retarded children. They were the ones who had to certify that such evaluations were broad psycho-educational assessments and not merely the traditional intelligence test. They had to carry out the bi-annual reevaluations, as well as annual reevaluations every time a program change was contemplated or parents requested them. It was their responsibility to prescribe an appropriate educational plan. It was their assessments and the recommendations based on them which were open to public scrutiny during due process hearings. Directors of special education often called on their psychologists to organize the school's presentation during hearings. They were the ones administrators and teachers turned to when called upon to improve their programs, individualize instruction, write behavioral objectives, mainstream children who had been in special education, and maintain children in regular class who would have been sent to special class prior to PARC. And of course, they were also the ones whose cooperation school people needed when they sought to circumvent PARC by, for example, failing to notify parents of changes in their children's programs, removing troublesone "normal" children to special education, using reevaluations to confirm predetermined placement decisions, hiding the existence of illegal waiting lists, or convincing parents that basically inadequate programs were appropriate for their children (Dworkin, 1976; Kuriloff, 1975). In short, school psychologists are what Kurt Lewin (1948) has called the "gatekeepers" of the system. The implementation of PARC in large part depended on their skill, commitment, and ability to manage conflicting demands on their loyalties. And, since PARC has provided a model for PL 94-142, knowing how they responded to its challenges may provide both valuable insights into the probable response of school psychologists to the new law, as well as some reasonable hypotheses as to its probable consequences.

Our third method was designed to study the major procedural component of the PARC reform. It entailed an intensive analysis of the transcripts of all the due process hearings held during the first four years after the Consent Decree was signed. Our goal was to develop a predictive model that could account for parents "winning" hearings. We believed that the content of such a model would go a long way toward showing whether the hearings made sense as rational, "truth finding" procedures. We supplemented this work with a more traditional legal review of the appeals stemming from the cases we studied. Here we wanted to find out if the appellate decisions were creating a body of precedent that could guide hearing officers in the future. If they were, then due process in education was working much as due process within other administrative realms and perhaps justified the faith of the lawyers and lay people who shaped both PARC and PL 94-142. If not, then the utility of the innovation as an instrument for educational decision-making would be open to serious challenge.

Footnotes for Chapter I

1. Throughout this report, Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania is referred to interchangably as the Consent Agreement, the Consent Decree, the PARC Agreement, the PARC reform, and simply PARC.

2. Pennsylvania's 504 school districts are grouped into 29 intermediate units (I.U.'s) which disburse state revenues and provide resources and services, including much of the state's special education, that many individual districts otherwise could not afford.

PART II: THE IMPACT OF THE REFORM

CHAPTER II

SURVEYING SCHOOL PSYCHOLOGISTS PERCEPTIONS OF THE PARC REFORM: RESEARCH PROCEDURES

Our efforts to assess PARC's effectiveness as a vehicle for generalized justice involved asking three separate sets of questions. First, we wanted to find out whether Pennsylvania's school psychologists believed their school systems[1] had changed as a result of the reform. Of course, we were especially interested in finding out what those changes were. Contrasts among areas affected and unaffected by the reform would enable us to gauge how well it had achieved the hopes of its architects, as well as what one might reasonably expect of such reforms in terms of organizational change. Second, we wanted to know how school psychologists saw their own role changing after the signing of the Consent Decree. Here variations in change across their functions could tell us much about the capacity of legal reforms to influence significant aspects of professional practice. Because school psychologists were pivotal actors, the success of PARC in large measure depended on such change. Our third objective was to see if we could account for variations in the amount of this self-reported change. To the extent this analysis enabled us to discover what combination of systemic and personal variables were associated with change, it would help us begin to understand how legal reform is translated into personal action within the organizational context of schools.

In the remainder of this cahpter, we will describe our method of answering the questions about PARC's impact on school systems and the role of school psychologists. In Chapter Four, we will describe special procedures we used to develop some understanding of psychologists who reported role change in response to the reform.

Developing the Questionnaire

The development of our questionnaire proceeded in several steps. To get a sense of what might be happening as a result of PARC, we began by reading every official document about it that we could find (PARC Consent Decree [Note 1], Basic Education Circulars [Note 18], Pennsylvania State Departments of Education and Public Welfare [1972a, 1972b], Opinions of the Attorney General [Note 19], School Administrators Memoranda [Note 20], and PARC Appeals [Notes 14, 15, 16]). How had the officials in charge expected it to affect assessment and placement, educational programming, and the school psychologist's role performance? We then checked these expectations against the realities we found in one rural and one urban school district, as well as in their affiliated intermediate units. Conducting interviews with the directors of special education, school psychologists, principles, guidance counselors, special education teachers, and social workers, we found important differences both among the professionals within each system, and between the organization themselves (Kuriloff, 1975). Beginning with over 1,000 questions, we eventually chose some 200 that seemed to tap these effectively. Adding background questions, we then piloted our questionnaire in a nearby school system. After eliminating unclear and unproductive items, we validated the pertinence of the remaining ones with a group of outstanding school psychologists working in Philadelphia and its suburbs. In the end, we were left with 160 questions (see Appendix II, p. 1) 132 of which were divided into 11 scales. The scales measured psychologists' perceptions of their systems' degree of bureaucratic formalization, provision of programs and services, responsiveness to parental protest and commitment to the letter and spirit of reform. They also measured psychologists' level of professional and organizational commitment, their knowledge of PARC, their preference for child or systems oriented placement criteria, and the amount of role change they reported experiencing after the reform (the complete scales can be found in Appendix III, p. 1). An additional 28 items related to the respondents attitudes toward retarded children, their evaluation of selected case dispositions and their preference for certain widely used assessment instruments, as well as their personal characteristics, backgrounds and work histories.

We now turn to a more detailed description of the questionnaire. First, we will discuss those scales designed to measure school psychologists' perceptions of PARC's systemic impact. We will then describe the scales designed to measure the psychologists' own responses to the reform. In the following chapter we will discuss scales, as well as other selected variables, we hoped would help us account for appropriate role change.

Scales Measuring PARC's Impact on School Systems

Scale 1: Schools' Responsiveness to Parental Protest in Placement Decisions (Appendix III, p. 1)

PARC was a consumer oriented suit. One of its major objectives was to help parents gain more control over the way public schools treat their retarded children. The foundation of such treatment is the school's initial placement decision. Psychologists were asked to judge whether, as a general practice, their systems had ever been responsive to vehement parental protests, had become so before PARC or had become so only after it. They also could indicate that such responsiveness existed but they did not know when it had arisen, or simply that they did not know if it existed. To contrast retarded children (the objects of the suit) with other children, we asked questions to find out if psychologists perceived their systems as more responsive to parental pressure when placement turned on a child's disruptive behavior, emotional disturbance, or low IQ. Would the law generalize to the other groups? Given the established relationship between disruptive behavior and EMR classification (Dunn, 1968; Mercer, 1973) would districts be more open to influence when the issue involved intelligence, less so when it involved disruptive behavior and still less so when it involved emotional disturbance?

Scale 2: Availability of Special Education Programs and Services (Appendix III, p. 2)

PARC could not be considered genuinely successful if it failed to create new resources. We asked psychologists to say whether a whole range of programs and services had been available to children in their districts prior to PARC, had come into existence since the reform, were available through some other public or private agency, or simply were not available. Respondents also had the option to say they did not know about the availability of a particular resource. The 17 items they rated covered everything from classes for retarded children at every level of functioning, to services such as physical and speech therapy, and family counseling. Psychologists' ratings enabled us to determine what they perceived to be areas of greatest and least growth in the public schools' provision of programs and services, and to judge how these conformed to the requirements of the Consent Decree.

Scale 3: School Systems' Adherence to the Letter of PARC (Appendix III, p. 3)

Beyond seeking to give parents more control over placement decisions and attempting to create new resources, PARC contained many specific formal requirements. These constituted the "letter" of the law. They were spelled out in the Consent Decree (note 1), COMPILE (Pennsylvania State Departments of Education and Public Welfare, 1972a) and COMPET (Pennsylvania State Departments of Education and Public Welfare, 1972b) and a number of governmental memoranda (notes 13, 14, 15, 16, 17, 18, 19, 20). They mandated an "appropriate" educational program for every retarded child. The rationale for the program had to be described in a detailed "educational prescription." This, in turn, was to rest on a careful, broad evaluation. The program had to have a new curriculum with individualized "behavioral" goals. Parents had to be given timely notice of these plans, and were to be consulted at key stages along the way. Of course, it was perfectly possible for a district to have done much or all of this long before the reform. Using the same choices we used in Scale 2, psychologists were asked to indicate whether their systems complied with a formal requirement, and if so, whether they had begun doing so before or after the inauguration of the reform. If some mandated conditions had predated the reform while others had only been created through it, could we discern a pattern that might help explain those differences?

Scale 4: School Systems' Adherence to the Spirit of PARC (Appendix III, p. 4)

PARC's formal requirements constituted the "letter" of the reform. But, since it grew out of the liberal context of the 1960's and gave expression to the aspirations of many long suffering parents, it conveyed much broader expectations. Using the same options we employed for Scales 1, 2, and 3, we asked psychologists to rate eight questions designed to measure how they perceived their systems's responses to PARC's spirit. Were children assigned to special education being monitored to make sure the program they were actually getting corresponded to what had been prescribed? Did the program contain "behavioral" objectives and appropriate curricula? PARC demanded that children be placed in the highest setting possible. A narrow, "letter of the law" reading of this might have meant that in borderline cases schools always proposed the higher alternative. Within the spirit of the reform, however, they might have individualized programs in such a way that every child assigned to special education spent as much time as possible in normal parts of the curriculum, such as gym, shop, and those subjects in which the child had shown particular talent. Beyond this, districts might have established intermediate "resource rooms" which provided "half-way houses" to ease a child's return to normal classes. The spirit of the reform also called on schools to involve parents more directly in the education of their children. Finally, of course, all of these changes demanded new skills and knowledge on the part of many professionals within the schools. Had the schools instituted necessary staff development programs to meet these needs? Once again, we wanted to know if districts differed widely both as to when they began conforming to the spirit of PARC and as to the pattern of their conformity.

Questions Concerning Psychologists' Attitudes Toward the Potential of Retarded Children (Appendix II, Questions 26-37, p. 4)

PARC's success rested, in part, on the extent to which school psychologists embraced the new conception of retarded children that it both embodied and sought to foster. Henceforth, no child was to be considered ineducable. All children were entitled to an appropriate education in a setting as close to normal as possible. Did Pennsylvania's psychologists share the new view? Did they expect more of retarded children than traditional categories--Educable, Trainable, Severely (i.e., untrainable)--implied? To find out, we asked respondents to match these categories against a set of descriptive statements. We wanted to know such things as the level of child they believed could attend classes with normal children, master numerosity, function in a sheltered workshop, achieve vocational independence and get married.

Scale 5: Knowledge of PARC
(Appendix III, p. 5)

Even if school psychologists' attitudes were in perfect accord with PARC, some students of court ordered reform would argue that their ability to comply would still depend to some extent on their knowledge of its requirements (Mandel, 1974). Of course, people can and do comply with many laws of which they are ignorant. Still, there is something intuitively appealing in the notion that given such a complex ruling as PARC, knowledge is at least a necessary condition of change. Did Pennsylvania's psychologists understand the reform? What were the areas of strength and weakness in their knowledge? To find out, we gave our respondents a true-false test drawn directly from the Consent Decree (Note 1) and subsequent administrative rulings (Notes 14, 15, 16, 18, 19, 20). It tapped such things as the timing and conditions of mandated reevaluations, the criteria by which a school is judged to have met its responsibilities to a child, the necessity of giving parents notice of a change in placement, and the right to compel the attendance of school officials, to call witnesses, and to cross-examine.

Scale 6: Importance of Child Oriented Placement Criteria
(Appendix III, p. 6)

If PARC demanded anything, it was that schools consider children more, their own organizational imperatives less (Kuriloff, 1975). We wanted to know if the criteria psychologists employed in making placement decisions reflected this new ordering of priorities. Usually, they take two kinds of factors into account. When they consider the child's current cognitive, emotional and social development, his or her background, age and sex, and the content and quality of various alternatives, they are using child-oriented criteria. Of course, an argument can be made that family background, age, sex and especially socioeconomic status should not be considered child-oriented. In fact, considered baldly, they probably do represent what courts refer to as "suspect classifications" (Kirp, 1973). Nevertheless, from a psychological point of view, they constitute part of the relevant information necessary to form a careful evaluation. Still, to be safe, when writing the item about SES, the most suspect of this group, we were careful to couch it in terms that also explicitly mentioned unquestionably relevant information such as the child's impact on the family, its stability, and its wishes for the child. To measure how important these criteria were to our respondents, we asked them to rate them on a four point Likert scale ranging from "of major importance," to "of little or no importance."

Scale 7: Importance of System Oriented Placement Criteria (Appendix III, p. 8)

When psychologists consider such things as the strength of administrative support, or the availability of a particular program, they are employing system-oriented criteria. We used the same Likert-type scale for measuring the importance of these criteria as we used for measuring the importance of child-oriented crtieria. Obviously, the two sets are not necessarily mutually exclusive, and most psychologists employ some combination of both in reaching their decisions. We were interested in finding out what balance Pennsylvania's school psychologists struck as a group, as well as which specific criteria they preferred.

Scale 8: Role Change (Appendix III, p. 8)

Ultimately, if PARC were to succeed, school psychologists had to alter more than the balance of their replacement criteria. We wanted to know if other aspects of their role had changed. Following Wilensky (1956) and Gouldner (1958, pp. 1-2) we defined a role as the behavior an organization expects of people assigned to specific positions. Such roles can be manifest or latent. A manifest role is one the organization, as represented in the shared expectations of its employees, believes legitimate to recognize formally. A latent role is one deemed inappropriate or irrelevant to notice officially. For example, the manifest role of school psychologists is often described in terms of expectations of behavior promoting the welfare of children. Seldom, if ever, is the latent role--designed to maintain the system's equilibrium by, for example, removing troublesome children from regular classes--mentioned publicly. Or again, while the manifest role of a psychologist is viewed by his or her colleagues as the promotion of children's welfare, the latent role defined by the psychologist's sex usually goes unacknowledged.

Of course, people do not just assume roles according to the expectations of others. They bring their own conceptions to their jobs, as well. Wilensky (1956) calls this their role orientation. When new professionals enter a system, they learn about the expectations defining their role in a variety of direct and indirect ways. When those expectations clash with their own, conflicts often develop. Assuming such conflicts do not result in either resignation or firing, they are resolved through informal give and take, subtle negotiation, and mutual accommodations which result in a new definition of the role by the organization. This new conception prevails until something disturbs the system's "equilibrium" once again. Legal reforms such as PARC invite such disequilibrium.

We could find no empirical literature that describes the impact of legal reform on the role of the school psychologist. In fact, we were able to find only a few scattered empirical studies of their role and functions. These suggest that the expectations of teachers (Baker, 1965; Gilmore & Chandy, 1973a, 1973b; Roberts, 1970, Styles, 1965) and administrators (Baker, 1965; Cutts, 1955; Gilmore & Chandy, 1973b; Kirschner, 1971; and Roberts, 1970) differ dramatically. It seems probable that these differences in expectations are occasioned by the kinds of organizational demands professionals occupying different roles experience. The data on teacher expectations are clear in this regard. They want psychologists to provide direct service, including counseling and behavioral management, to children with whom they are having difficulties. In lieu of that, they at least want psychologists to remove the children to "more appropriate" settings--certainly to get them out of their present ones. Since psychologists almost never have either the time or training to provide direct service, this means that in practice, teachers end up stressing their psychometric, classificatory role. Top administrators and directors of psychological services, and to a much lesser extent, practicing school psychologists themselves, envision a broader role, focusing on consultation, in-service training and educational programming based on psycho-educational assessment (Roberts, 1970).

Certainly a broader role is called for by PARC. In particular, psychologists complying with the letter of the reform would have had to increase the thoroughness of their evaluations, learn much more about relating programming to evaluation, and sharpen skills for working constructively with parents. Those complying with its spirit also would have had to develop the ability to monitor the programs they prescribed, and to consult within both regular and special education.

In order to bring some degree of organization to these diverse functions, we segmented the psychologists' role into three areas: consultation in the mainstream (i.e., regular education); consultation in special education and assessment practices. Each segment became a sub-scale of our overall Role Change Scale. Within each segment of the role psychologists perform a variety of functions. We asked a set of questions about each to determine what changes had occurred. More specifically, respondents were asked to indicate whether the functions within each set had been given increasing emphasis, the same emphasis or less emphasis "in the last three years" (i.e., since the inauguration of the reform). They also had the opportunity to say if a particular function was not part of their role. For clarity, we will describe separately the scales assessing each segment of the role.

Sub-Scale 8.1: Role Change in Mainstream Consultation (Appendix III, p. 10). PARC explicitly incorporated the principle of "normalization." This principle could easily be viewed as supporting primary prevention through consultation with regular class teachers. Had psychologists increased such activities? Were they spending more time devising ways and means to maintain children within their normal classes? If so, had they managed to rearrange their priorities in order to provide the necessary follow-up for their suggestions and plans?

Sub-Scale 8.2: Role Change in Special Education Consultation (Appendix III, p. 11). The reform also implied an expanded role for psychologists within special education. Who was in a better position to secure, coordinate and supervise special services, assess existing programs, and develop new ones? More important, what professional was in a better position to follow a child's progress in a newly assigned program, to make sure it was indeed appropriate? Yet in some ways, such activities marked the most dramatic departures from the classificatory and advice-giving role the literature suggests is typical of school psychologists. How had Pennsylvania's psychologists responded to this challenge? Could those who expanded their role to meet the challenge be distinguished from those who had not? We will seek answers to this last kind of question in the following chapter.

Sub-Scale 8.3: Role Changes in Assessment Practices (Appendix III, P. 12). PARC specificed a set of procedures psychologists had to follow when children were referred for special education. I.Q. testing was no longer enough. Now they had to fill out forms which showed they had also assessed children's social, emotional and perceptual-motor development, as well as their school achievement. Their recommendations had to follow from this broad assessment and to be clearly explained to parents--and psychologists had to be prepared to defend their proposals in due process hearings. Had these requirements actually resulted in changes in the role, or did the psychologists simply view themselves as having "always worked that way?" More important, perhaps, did they report changes in emphasis necessary to insure that the programs they proposed were actually suitable? For example, were they visiting potential placements more frequently?

Reliability

Since we were primarily engaged in exploratory research and sought to describe evolving events, we were not concerned with the test-retest reliability of our instrument. Instead, we used their internal consistency as a measure of their reliability. Nunnally (1967) suggests that because this measure sets the outside limits for other types of measures, it is the appropriate choice for exploratory work where limitations of time and resources are a serious factor. In discussing the problem of standards of reliability he goes on to argue that:

> What a satisfactory level of reliability is depends on how the measure is being used. In the early stages of (basic) research on predictor tests or hypothesized measures of a construct, one saves time and energy by working with instruments that have only modest reliability, for which purpose reliabilities of .60 or .50 will suffice. If significant correlations are found, corrections for attenuation will establish how much the correlations will increase when reliabilities of measures are increased. If those corrected values look promising, it will be worth the time and effort to increase items and reduce measurement error in other ways. (p. 226)

Table 1 (p. 42) presents the Alpha reliability coefficients for the scales we have discussed so far.[2] These coefficients are based on the responses of our sample of 178 school psychologists. Table 1 also includes Alphas for Scales 1 through 5 that we developed from the responses of 799 educators we survey as part of another study of PARC.[3] This sample included 56 directors of special education, 164 principals, 208 counselors, 193 special education teachers, as well as the 178 psychologists discussed in this report.

Table 1 shows that for all roles, Alphas met Nunnally's criterion for a satisfactory degree of reliability in exploratory research. For psychologists, only Scale 5 fell below the criterion level. Comparison of the means and standard deviations for the two samples (psychologists: $\overline{X}$ = 15.40, S.D. = 1.34; all roles: $\overline{X}$ = 12.38; S.D. = 4.37) indicates that the differences between the Alpha for psychologists and for all roles resulted largely from the relative homogeneity of the psychologists--they simply did not vary enough in their responses to the Due Process Quiz to provide reliable differentiation. Considering this, together with our limited resources, we decided the psychologists' Alpha was not so far off the criterion as to make it worth trying to improve the test. Because it is important to our discussion of role change in Chapter IV, we will employ corrections for attenuation when considering it. A full reliability analysis for all 11 scales can be found in Appendix III).

The reliability coefficients of our scales may suffer some distortion from another source. Given the sampling procedure we describe below (p. 44) several respondents were often affiliated with the same system. The interdependence this created may have resulted in an overestimation of true reliabilities for scales measuring systemic change. In turn, this may account, at least in part, for psychologists' conservative estimates of change. Of course, cognitive dissonance may offer an additional explanation. It would seem only natural for employees whose systems are subject to legal reform to report that they have always been in compliance (Kirp, Kuriloff & Buss, 1975). In any case, we were able to establish that respondents'

Table 1

Alpha Reliability Coefficients for Scales Measuring the Impact of PARC

Scale No.	Scale Name	Alpha Coefficients for Psychologists N = 178	Alpha Coefficients for All Roles N = 799
1	Schools' Responsiveness to Parental Protest in Placement Decisions	.72	.74
2	Availability of Special Education Programs and Services	.70	.77
3	School Systems' Adherence to the Letter of PARC	.75	.79
4	School Systems' Adherence to the Spirit of PARC	.66	.58
5	Knowledge of PARC	.38	.65[a]
6	Importance of Child Oriented Placement Criteria	.58	
7	Importance of System Oriented Placement Criteria	.71	
8	Role Change	.77	
8.1	Role Change in Mainstream Consultation	.72	
8.2	Role Change in Special Education Consultation	.79	
8.3	Role Changes in Assessment Practices	.78	

Table 1--Continued

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[a] This Alpha was computed on all roles, including psychologists. Since there was little variability among psychologists, it is probably a conservative measure of the scale's true reliability.

estimates were, in fact, conservative, by comparing their responses on key items to actual, state-wide increases in special education programs following the reform. We will report these, along with our survey results, where appropriate.

Sampling Procedure

We mailed our final instrument, together with an IBM response sheet keyed for optical scanning, to all school psychologists working within a stratified random sample of school districts or serving them from affiliated intermediate units. The 1970 U.S. Census identified 14 urban areas in the state surrounded by "standard metropolitan statistical areas (SMSAs)." We included each of the 14 urban districts in our sample. We labelled each school district included in a SMSA, suburban, and the remaining districts, rural. Using county census data on mean family income and educational attainment, we further classified all suburban and rural districts into those of high, medium and low socioeconomic status. We then randomly selected 10% of the total number of suburban and rural high, medium and low districts. Together with the urban districts, this gave us a sample of 63 districts distributed as shown in Table 2 (p. 45).

Mailing the Questionnaire

The initial mailing went out in May, 1975. We followed it with a letter reminder in June. Our response rate at this point was about 45%. Because the mailing had gone out so close to the end of the school year, we believed a Fall follow-up was warranted. In September,

Table 2

Stratified Random Sample of Pennsylvania School Districts

School Districts by SES	Number of School Districts in Sample	Number of Similar Districts in State
Urban	14	14
Suburban High	8	80
Suburban Medium	12	120
Suburban Low	11	110
Rural High	3	30
Rural Medium	8	80
Rural Low	7	70
TOTAL	63	504

we mailed another questionnaire to all non-respondents, together with a letter of endorsement from the Pennsylvania Council of Executive Directors of Intermediate Units. We followed this up with reminder notices and phone calls. We stopped collecting when our return rate hit 65% (178 usable questionnaires from the 275 psychologists within our sample). We believed this was an appropriate cut-off criterion as it compared very favorably to most social science surveys involving a large number of questions, requiring over an hour of the respondent's time to answer.

The Respondents

Tables 3, 4, and 5 present information on the background of our respondents. An inspection of Table 3 (p. 47) shows Pennsylvania's psychologists tended to be on the young side: 75% were under 50 and almost 50% were under 40. They were predominently male (68%) Protestant (46%) and Catholic (32%) and overwhelmingly white (95%). In terms of the general population, their degree of whiteness suggests that Blacks, constituting roughly 8.6% of the total population in Pennsylvania, were under-represented in our sample and, to the extent that it accurately reflected the population, also among the ranks of school psychologists. Such an under-representation would be a matter for concern, especially when one realizes that in several of Pennsylvania's largest cities, Blacks constitute well over 50% of the public school population.

Table 4 (p. 49) describes school psychologists' educational background. The vast majority (92%) were highly educated, having at least a master degree plus 30 additional credits. Over 50% had received their highest degree within the last six years, but a substantial number (30%) were also veterans. Finally, a large majority of them (82%) had received their degree in an appropriate psychological field. Assuming that those who indicated a background in the liberal arts or sciences majored in psychology, then it appears that a substantial majority of Pennsylvania's school psychologists had met the curricular requirements (although not necessarily the internship criterion) of Division 16 of the American Psychological Association (Bardon, Hill,

Table 3

Personal Characteristics of Responding School Psychologists

	Number	Percent
Age (149)[a]		
20-29 years old	31	18[b]
30-39 years old	72	41
40-49 years old	28	16
50-59 years old	33	19
60-69 years old	11	6
	175	100 (3 missing values excluded)
Sex (146)		
Male	121	68
Female	53	30
	174	98[c] (4 missing values excluded)
Race (optional) (147)		
White	161	95
Black	2	1
Chicano	2	1
Oriental American	0	0
Native American	4	2
	169	99 (9 missing values excluded)
Religion (optional) (148)		
Roman Catholic	53	32
Amish or Mennonite	3	2
Protestant	77	46
Jewish	19	11
Other	15	9
	167	100 (11 missing values excluded)

[a] Numbers in parentheses following items within tables refer to their location within the original questionnaire (see Appendix II, p. 1).

Table 3--Continued

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[b] All percentages given in tables are rounded to the nearest percent. Consequently, some tables will not add to 100. Missing values were not recorded when calculating percentages.

[c] On this item 2% of the respondents marked their IBM response sheet in an unscorable fashion.

Table 4

The Educational Background of School Psychologists

	Number	Percent	
Highest degree received (150)			
BA or BS degree (please skip question #152 below)	0	0	
MA or MSEd degree	14	8	
Masters plus 30 credits	144	81	
Ph.D or Ed.d degree	19	11	
	177	100	(1 missing value excluded)
Recency of highest degree (151)			
Less than 1 year ago	9	5	
1-3 years ago	50	28	
4-6 years ago	40	23	
7-9 years ago	24	14	
10 or more years ago	53	30	
	176	100	(2 missing values excluded)
Area of specialization in graduate school (152)			
Non-education curriculum (Liberal Arts or Sciences)	10	6	
Elementary or Secondary Education (teacher's prep)	2	1	
Educational, School, or Counseling Psychology	142	82	
Educational Administration	2	1	
Special Education	18	10	
	174	100	(4 missing values excluded)

Table 5

School Psychologists' Occupational Experience in Education

	Percentage of Psychologists Choosing Options				
	A Never	B 1-3 yrs.	C 4-6 yrs.	D 7-9 yrs.	E 10+ yrs.
Classroom teacher (153)	39%	23%	19%	9%	10%
Special Education Teacher (154)	66%	10%	15%	5%	4%
Guidance Counselor (155)	72%	13%	8%	2%	5%
Principal (156)	95%	2%	1%	2%	0%
School Psychologist (157)	4%	28%	29%	16%	23%
Director, Supervisor or Coordinator of Psychological Services, Pupil Personnel Services, Special Services, or Special Education (157)	55%	20%	12%	3%	11%
Assistant Superintendent or Superintendent of Schools (159)	98%	1%	0%	1%	1%
Years employed by current school district or intermediate unit (160)	3%	19%	28%	16%	25%
Number = 178[a]					

[a] There was an average of five missing values excluded from items 153-160.

Rosebrock, Bindman, Hodges & Scott, 1966).

Table 5 (p. 50) describes psychologists' work experience in education. This table reveals an interesting pattern. Whereas a bit over 60% of the psychologists had served as regular classroom teachers, fewer than 40% had been special education teachers, and fewer than 30% counselors. While an insignificant amount (5%) had been principals, almost half (45%) had served in some kind of administrative post related to pupil personnel services or special education. This suggests that teaching is still a major avenue into school psychology, but that the apparently more closely allied fields of special education and counseling, although important, are not vital rungs on a career ladder of helping professions within education. To the extent this is true, it may hamper the psychologists ability to work effectively in special education. The fact that within those professions, a large proportion of people who become school psychologists have been singled out for administrative responsibility may have implications for their attitudes toward legally imposed reform. Certainly they may identify less with children and more with the organizations they serve.

Representativeness of the Sample

Assuming our stratifying procedures were appropriate, there were still two major threats to the representativeness of our final sample. First, to the extent psychologists in some strata responded more frequently than those in other strata, it would restrict our ability to generalize our results. Second, representativeness could also be questioned to the extent the respondents differed from non-respondents.

Table 6 gives the number of psychologists within each stratum of our sample, as well as the number who returned the questionnaire.

Table 6

School Psychologists' Return Rate by Socioeconomic Stratum

School District SES (Strata)	Number of Psychoogists within Stratum[a]	Number of Psychologists Returning Questionnaire	Return Rate
Urban	96	48	50%
Suburban High	24	17	71%
Suburban Medium	51	35	69%
Suburban Low	45	32	71%
Rural High	6	5	83%
Rural Medium	11	8	73%
Rural Low	40	33	83%
TOTAL	273	178	65%

[a] All psychologists in the sample districts within each stratum were sent questionnaires.

It is clear from these results that psychologists from all strata were well-represented in our returns. Our confidence in this conclusion is strengthened further by the fact that many poorer districts obtain their psychological services from affiliated I.U.s. About 65% of our respondents were attached to such I.U.s, while the remaining 35% worked directly for districts. This was comparable to the statewide ratio of roughly 60-40. The 65% came from 24 of the state's 29 I.U.s. Only psychologists in I.U.s 10, 18, 24, 25, and 27 did not appear in our sample. Of these, I.U.s 24 and 25, in the extreme southeastern corner of the state, serve primarily wealthy, suburban communities with highly educated populations. I.U. 10 represents rural, medium SES communities in the center of the State. I.U. 27 serves medium SES, suburban communities in the extreme western part of the state. Since I.U.s with similar socioeconomic and geographic characteristics were well represented in the sample, and since it also drew from the stratified districts, it was quite representative of the situation across Pennsylvania.

Of course, even though our respondents came from every part of the Commonwealth, their perceptions still might have been unrepresentative if they differed in important ways fron non-respondents. While we did not have the time or money to conduct a special study of the non-respondents, the delay between responses in the Spring and Fall allowed us to compare early and late responders. We found that early responders tended to report less change and to be less knowledgeable about PARC. For example, in comparison to late responders, they reported that the reform had resulted in 5% fewer programs for the severely mentally retarded, 26% fewer programs for the profoundly retarded, and 8% fewer for programs for the multihandicapped. Similarly, early respondents scored an average of 23% worse on the due process quiz. These results may reflect actual new developments in the field over the summer. They also suggest that our combined results may tend to underestimate the impact of the reform. This latter inference was supported by our field studies (Dworkin, 1976). In each district and I.U. we observed, we found that in every case, the more knowledgeable, energetic psychologists needed the most prodding to fill out and return their forms: they were simply too busy with their work to give the survey a high priority. To the extent this was true generally, and led to an over-representation of highly competent psychologists in the non-respondent group, our findings of change may be somewhat conservative.

Processing the Questionnaires

Once the returns were in, we checked all answer sheets for obvious encoding errors. After also making sure that they were marked with an appropriate pencil and contained no extraneous perforations that would interfere with processing, we scanned them, converting them directly to IBM cards. After verifying the cards against the answer sheets, we conducted our statistical analyses using the SPSS package (Nie, Hull, Jenkins, Steinbrenner & Bent, 1975).

Footnotes to Chapter II

1. In practice, school psychologists in Pennsylvania may work for a single school district or for several districts through their associated intermediate unit. In order to avoid confusion, whenever we refer generally to their organizational affiliations, we will use the term "school system". Otherwise, we will employ the specific term, district or intermediate unit.

2. Because we designed our questionnaire for both descriptive and analytic purposes, we had to make a compromise regarding the format of questions on Scales 1 through 4. Descriptively, we wanted to know when key events occurred in relation to PARC. But we also planned to use the items together in scales to measure the number of psychologists who perceived change as a result of the reform. As the descriptive format did not lend itself to this, we had to choose from among the five alternatives: e.g., (A) This program or service has been available for three years or longer (i.e., prior to PARC); (B) This program or service has been available in the school district or intermediate unit for less than three years (i.e., since PARC); (C) This service is available through public or private agencies other than the public schools; (D) This program or service is not available to exceptional children; and (E) I do not know if this program or service is available to exceptional children: one which we could oppose to all others and sum across the questions making up each scale. Since we were interested in change following PARC, we did all reliability analyses in terms of psychologists who chose option "B" (available since PARC) as against those who choose any other option.

3. Reports of this study are currently in draft. Data are on file with the Project on Student Classification and the Law, Graduate School of Education, University of Pennsylvania, 3700 Walnut St., Philadelphia, Pa. 19104.

CHAPTER III

SCHOOL PSYCHOLOGISTS DESCRIBE THE IMPACT OF THE PARC REFORM

Because they are key actors in school classification and placement decisions, school psychologists are centrally involved in much of what special education reformers have been trying to change through legal action. Certainly this was true in the case of PARC which had major implications for both the way schools treated retarded children and the way psychologists practiced their profession. Our survey was designed to elicit psychologists' perceptions of how the reform affected both of these areas. In the first part of this chapter, we present their understanding of how their systems have changed since the Consent Decree was signed. In the second part, we describe their reports of its impact on their own professional activities.

Systemic Impact

Schools' Responsiveness to Parental Protest in Placement Decisions

PARC was designed to give parents more say over the education of their children. Given the ways schools are organized (Kirp, 1976; Kirp, Buss, Kuriloff, 1974) this meant they had to have some say in placement decisions. Did school psychologists view schools as having become more responsive to parental demands after the reform? Table 7

Table 7

School Psychologists' Perceptions of School Systems' Responsiveness to Parental Protest in Placement Decisions[a]

A. Indicates a practice that has existed in the public schools for three years or more.

B. Indicates a practice that was begun in the public schools the last three years.

C. Indicates a practice that has never been done in the public schools.

D. Indicates a practice that is done in the public schools, but I do not know when it began.

E. I do not know if this practice is done in the public schools.

	Percentage of Psychologists Choosing Option					Total percentage of	B as a percentage of Total of
	A	B	C	D	E	A, B & D	A, B & D
If parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though he falls within the legal limits for placement in special education. (67)	44%	18%	7%	17%	15%	79%	23%
If parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though the child is often disruptive in class. (65)	44%	10%	6%	24%	16%	78%	13%

Table 7--Continued

	Percentage of Psychologists Choosing Option					Total percentage of A, B & D	B as a percentage of Total of A, B & D
	A	B	C	D	E		
If the parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though some believe he has emotional problems (81)	51%	7%	7%	20%	16%	78%	9%
Number = 178[b]							

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[a] Items are arranged by rank order of the percentages in Column B.

[b] There was an average of seven values excluded from the above items.

(pp.s 57-58) presents their response to three questions touching on this issue. It shows that between 44 and 51% of the psychologists believed that, prior to PARC, their systems tended to give in when parents complained vociferously. Another 17 to 24% believed this to be true but could not locate such responsiveness in relation to the reform. Finally, between 7 and 18% saw it as having come about since the Consent Decree. This means that approximately 78% of the respondents believed their systems were currently responsive to strong parental protests; a result surely envisioned by the instigators of the suite (Gilhool, 1973).

Among psychologists who indicated that their systems had become responsive since PARC, an interesting pattern prevails. While 18% indicated openness to protest by parents of children who fall within the legal limits for special education, only 10% indicated such openness to parents of disruptive children, and only 7% to parents of children thought to have emotional problems. While these differences must be viewed cautiously, given the interdependency of row percentages, they may suggest, to a modest extent at least, that the reform generalized to other groups of children in a predictable manner. Certainly, it follows that school systems should be most responsive to the demands of parents of children most directly covered by the reform. And, since low IQ alone usually has been only a necessary condition of EMR placement, often requiring as a sufficient addition the presence of disturbing behavior (Dunn, 1968; Mercer, 1973) we would expect same, but a lesser amount of responsiveness to parents of desruptive children. Since emotional disturbance much less often has been used as a tacit criterion for EMR placement, we would expect even less generalization to parents of these children.[1] This appears to be precisely what we found. Psychologists reporting change since PARC indicated that their systems tended to be most responsive to the protests of parents whose children fell within categories customarily associated with retardation, less responsive to parents of disruptive children and least responsive to parents of children perceived as emotionally disturbed.

Availability of Special Education Programs and Services

Generalized justice under PARC would not have been served simply by allowing parents to influence the outcome of educational decision-making. It also required that every retarded child be provided with an appropriate and free public education. In a state that had denied severely retarded children access to public schools, compliance meant creating a large number of new programs. Since such children had many special needs, it also meant the provision of necessary ancillary services. Beyond this, the demand that "appropriate" must be defined through careful, individualized assessments, meant that even less seriously retarded children would need some new resources, despite the fact that most of them were already in school. Table 8 (p. 64) describes psychologists' perceptions of the availability of such programs and services in special education, in relation to the advent of the reform.

Looking first at programs specifically designed for the retarded (educable, trainable, severely-profoundly retarded, and multiple handicapped) we find that a vast majority of psychologists perceived their systems as having provided educable (99%) and trainable (97%) classes prior to PARC, while a substantial majority also saw them as having provided classes for the multiple handicapped (65%). Many psychologists (51%, 37% and 20% respectively) perceived their systems as having developed programs for the profoundly and severely retarded and the multiple handicapped since the reform. Only 14, 10 and 5% said those programs were available solely through outside agencies. Thus, at least at the level of categorical programs, PARC seems to have had a large impact in precisely those areas the Pennsylvania Association for Retarded Children had hoped (Note 21); according to the State's psychologists, most school systems now have programs for seriously retarded children. Apparently, there has been some generalization of growth to other exceptionalities as well. Sixteen percent of the psychologists said their systems had developed classes for emotionally disturbed and learning disabled children since the reform.

Here, the results tend to seriously underestimate the amount of growth, probably because our questions did not ask respondents to judge the increase in programs and services resulting from the reform. In a separate study we undertook of I.U. programs and services, we found increases of 58% in the number of trainable and severely retarded pupils, 94% in the number of emotionally disturbed pupils, and 159% in the number of learning disabled pupils, over the four years since PARC. There were corresponding increases of 96%, 165% and 89% respectively, in the number of teachers employed within these categories.[2] While some of the increases in non-retarded programs stemmed from causes other than the reform, the Director of Special Education for the Commonwealth, William Ortman attributed most of them to the ability of interested parties to use PARC as both a rationale and a goad to induce the Legislature to spend more money on non-retarded exceptional children (Note 22).

When we turn to psychologists' perceptions of available services, we find an overwhelming majority reported that their systems provided speech therapy (99%) and homebound instruction (98%). Large majorities also reported the availability of vocational counseling and training (88%) resource rooms, psychiatric evaluations and services (67%) and physical therapy (65%). Almost half (46%) claimed their systems provide medical evaluations and services. Approximately 40% said they offered day care, family counseling, and neurological evaluations. Among these services, psychologists reported most growth since PARC in resource rooms (44%) vocational counseling and training (20%) physical therapy (17%) day care (12%) and neurological services (10%). Taking those who said such services were currently available as 100%, a median of 25% saw them as having come into existence since the reform. Although this is less than the average of 44% who saw increases in severely and profoundly retarded programs as having occurred after PARC, it still represents a healthy proportion of the psychologists, and suggests the reform resulted in a considerable increase in services.[3] Perhaps the most optimistic aspect of these findings is the growth of resource rooms. Since they were specifically designed to maintain in the regular class children who otherwise would have to be transferred to special education, their growth suggests that systems have been attempting to implement PARC's principle of normalization.

School Systems' Adherence to PARC's Letter

PARC contained many formal requirements, designed to insure that programs and services were brought together with children in a way that promised them the best chance of an appropriate education. Table 9 (pp. 67-69) describes psychologists' perceptions of their systems' compliance with those requirements. Looking first at the column containing the total percentage represented by columns A, B and D we find the number of psychologists ranging from 97%, who saw their systems arranging a parent conference to explain recommendations after testing, to 74%, who said school officials meet with the parents of a child being reevaluated to discuss placement issues, around a median of 86%, who saw new curricula being developed for exceptional children. This means a large majority believed their systems were complying with the letter of the reform.

Considering items above the median on Table 9, we observe that most psychologists reported systemic compliance with PARC's demands for the notification and inclusion of parents in the initial placement process. The only item of this nature falling below the median involves the requirement that parents also be included in the periodic reevaluation process (74%). It is therefore significant that the percentage of psychologists (79%) reporting systemic compliance with the requirement that specific, educational prescriptions be written at each reevaluation, also falls below the median. Evidently, school

Table 8

School Psychologists Perceptions of the Availability of Special Education Programs and Remedial Services in Pennsylvania[a]

A. This program or service has been available in the school district or intermediate unit for three years or longer.

B. This program or service has been available in the school district or intermediate unit for less than three years.

C. This service is available through other public or private agencies other than the public schools.

D. This program or service is not available to exceptional children.

E. I do not know if this program or service is available to exceptional children.

	Percentage of Psychologists Choosing Options					Total percentage of A or B	B as percentage of Total A, B & D
	A	B	C	D	E		
Profoundly mentally retarded program (40)	32%	51%	14%	1%	3%	83%	61%
Resource Rooms (54)	40%	44%	1%	9%	6%	88%	50%
Severely mentally retarded program (40)	51%	37%	10%	1%	1%	88%	42%
Classes for multiple handicapped children (may include developmental disabilities) (45)	65%	20%	7%	6%	3%	85%	24%
Vocational counseling and training (55)	68%	20%	10%	2%	0%	88%	23%
Physical therapy (52)	48%	17%	30%	2%	2%	65%	26%

Table 8--Continued

	Percentage of Psychologists Choosing Options					Total percentage of A or B	B as percentage of Total A, B & D
	A	B	C	D	E		
Classes for emotionally disturbed children (43)	76%	16%	3%	3%	1%	92%	17%
Classes for brain injured or learning disabled children (42)	81%	16%	1%	2%	0%	97%	16%
Day care centers for exceptional children (47)	27%	12%	46%	3%	11%	39%	31%
		(11%)^b					
Neurological evaluation and services (50)	29%	10%	54%	6%	2%	39%	26%
Home bound instruction (46)	89%	9%	1%	1%	1%	98%	9%
Psychiatric evaluation and services (51)	60%	7%	30%	2%	1%	67%	10%
Classes for physically handicapped children (may include blind and deaf) (44)	85%	7%	5%	2%	1%	92%	8%
Family counseling (48)	34%	5%	55%	2%	3%	39%	13%
Medical evaluation and services (49)	46%	3%	46%	2%	3%	49%	6%
Trainable mentally retarded classes (39)	97%	3%	1%	0%	0%	100%	3%
Speech therapy (53)	97%	2%	1%	0%	1%	99%	2%
Educable mentally retarded classes (38)	99%	1%	0%	0%	0%	100%	1%

Table 8--Continued

NUMBER = 178[c]	

[a] Items are arranged by rank order of the percentages in column B.

[b] Median.

[c] There was an average of one value excluded from items 38-55.

Table 9

School Psychologists' Perception of School Systems' Adherence to the Letter of PARC[a]

A. Indicates a practice that has existed in the public schools for three years or more.

B. Indicates a practice that was begun in the public schools only in the last three years.

C. Indicates a practice that has never been done in the public schools.

D. Indicates a practice that is done in the public schools, but I do not know when it began.

E. I do not know if this practice is done in the public schools.

	Percentage of Psychologists Choosing Options					Total percentage of A, B & D	B as a percentage of Total of A, B & D
	A	B	C	D	E		
Following testing the parents receive a notice describing the school's recommendations for their child, and their legal option to request a hearing if they disagree (72)	24%	69%	1%	2%	3%	95%	73%
If parents request a hearing, school officials attempt to meet with the parents, explain their recommendations, and where possible negotiate an appropriate placement (73)	29%	64%	2%	2%	2%	95%	57%

Table 9--Continued

	Percentage of Psychologists Choosing Options					Total percentage of A, B & D	B as a percentage of Total of A, B & D
	A	B	C	D	E		
School officials meet with the parents who have requested a hearing, to find out their desires, explain the school's position, and/or attempt to agree upon an appropriate placement for their child (84)	35%	58%	1%	3%	3%	96%	60%
A specific prescription describing the child's problems and his educational needs is written following each reevaluation of a child assigned to special education. (70)	27%	43%	8%	9%	13%	79%	54%
Standardized forms are completed following each testing session, to insure that a broad evaluation has been conducted. (74)	41%	37%[b]	7%	5%	10%	83%	45%[b]
Behavioral goals are set for each child assigned to special education and curricula is developed to facilitate their implementation. (69)	35%	32%	7%	10%	16%	77%	42%
School officials meet with the parents of a child who is being reevaluated to discover their wishes, explain the reevaluation procedure, explain school programs,							

Table 9--Continued

	Percentage of Psychologists Choosing Options A	B	C	D	E	Total percentage of A, B & D	B as a percentage of Total of A, B & D
and make placement recommendations. (80)	40%	27%	10%	7%	16%	74%	36%
New curricula is being developed for use with exceptional children in the school district or intermediate unit. (66)	56%	20%	1%	10%	14%	86%[b]	23%
Following testing, a conference is arranged between parents and school officials, in which the results and placement recommendations are disclosed. (71)	70%	19%	1%	8%	3%	97%	20%
NUMBER = 178[c]							

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[a] Items are arranged by rank order of the percentages in column B.

[b] Median.

[c] There was an average of two missing values excluded from the above items.

systems are giving a somewhat lower priority to PARC's elaborate reevaluation process, designed to protect children from being assigned to special education and then forgotten, than to its equally elaborate evaluation process. Further evidence for this is found in the results of the due process quiz (Table 12, p. 83) which revealed that 94% of the psychologists wrongly believed reevaluations must be conducted every three years (instead of every two years, as PARC mandates). This convenient and almost universal error suggests the burdens of other aspects of the reform lead psychologists and their systems to neglect reevaluation (Kirp, Kuriloff, Buss, 1975). Table 9 contains additional evidence supporting this explanation: the percentage of psychologists reporting that, in their systems, standardized forms were completed following each testing session, also fell below the median--even though completion became their legal responsibility following the signing of the Consent Agreement.

The remaining item below the median on Table 9, as well as the median item itself, involve the curriculum. Seventy-seven percent of the psychologists perceived their systems as establishing behavioral goals for all children assigned to special education. Eighty-six percent also saw their systems as creating new curricula for them. While these are relatively high figures, they suggest that like the reevaluation process, psychologists saw their systems as giving curriculum development somewhat less priority than initial assessment and placement procedures, or efforts to involve parents in them.

When we look at "B"--practices begun since PARC--as a percentage

A, B and D--practices currently pertaining within the system--we find that psychologists perceived most change in the mandated involvement of parents in the placement process. Thus, of the 95% who believed their systems notify parents of the school's recommendations and their legal rights after testing, 73% believed the practice began after the reform. Sixty-seven percent (of 95%) perceived the practice of negotiating differences between parents and the school, when the parents object to a placement, as having developed since the reform. Sixty percent (of 96%) felt similarly about school officials' efforts to discover parents' wishes and to explain the school's position after a hearing request. Finally, 54% (of 79%) saw the practice of writing educational prescriptions after reevaluations as having developed since PARC.

Although psychologists reported a high degree of compliance in areas of the reform involving both the curriculum and their own practice they reported less changes in them since its inception. Of 86% who saw their systems as developing new curricula, only 23% associated it with the advent of the reform. Forty-two percent (of 77%) saw the use of behavioral goals linked with it. On an item for which they have primary responsibility, only 45% (of 83%) of the psychologists saw the practice of filling out standardized forms as having developed after PARC. In a related area, only 20% (of 97%) viewed the practice of arranging parent conferences, in order to discuss placement recommendations, as having developed since the reform. Interestingly enough, however, whereas 70% (column A) felt parent conferences preceded the reform, only 27% felt written prescriptions did. Apparently, a large majority of the psychologists believed they have always invited parents in after the initial testing of their children, but that the practice of writing detailed prescriptions, when carried out at all, followed the reform. Also interesting is the contrast between the 70% who claimed their systems invited parents to discuss testing results prior to *PARC*, and the 40% who saw them as having had conferences with parents to discuss reevaluations. Here once again we have evidence of the relatively low priority given to the reevaluation process.

School Systems' Adherence to the Spirit of the Reform

Simple compliance with *PARC*'s letter was only a necessary condition for achieving its objectives. *Appropriate* education, in the *most normal* setting possible, for *all* children, depended as much on the degree to which the Commonwealth's schools embraced the spirit of the reform as well. Table 10 (pp. 74-75) presents psychologists' perceptions of their school systems' performance in this regard. Although fewer psychologists perceived their system adhering to the spirit as opposed to the letter of the reform, they still reported a great deal of systemic support. This ranged from a high of 92% of the psychologists, who believed that in their systems those who recommended programs usually visited them, to a low of 66%, who believed that psychologists or counselors checked the goals and curriculum of a program before recommending it. Aside from the item about visiting recommended programs, all other items above the median relate to the issue of normalization.[4] Eighty-six percent of the psychologists' saw their systems as allowing educable children to share some vocational classes with normal children, 85% perceived educable and normal children as sharing some extra-curricular activities and 82% said they also share some academic subjects.

When we look at items below the median, we find that three of them involve efforts to improve the programs and services offered to retarded children, while the fourth touches on efforts to enhance the knowledge of professionals who work with them. Seventy-five percent of the psychologists said school personnel have established resource rooms to provide remedial help for retarded and slow normal children. Sixty-eight percent said their systems attempted to encourage parents to become involved in special classrooms, and 66% reported psychologists or counselors in their districts checked to make sure a program has behavioral goals and a curriculum to achieve them before making a recommendation. Finally, 77% said that their systems ran staff development programs that addressed current issues in special education.

Psychologists reported most change in response to PARC in areas that reflected concern for the principles of normalization and appropriateness. Thus, 39% of them believed that the development of resource rooms followed PARC, 23% related it to mainstreaming EMR children in academic subjects, and 16% related it to mainstreaming them in vocational classes. On the other item above the median, 17% of the psychologists associated with the reforms the practice of checking a proposed program, in order to insure that it had behavioral objectives and a curriculum designed to meet them, before recommending

Table 10

School Psychologists' Perceptions of School Systems' Adherence to the Spirit of *PARC*[a]

A. Indicates practice that has existed in the public schools for three years or more.

B. Indicates a practice that was begun in the public schools only in the last three years.

C. Indicates a practice that has never been done in the public schools.

D. Indicates a practice that is done in the public schools, but I do not know when it began.

E. I do not know if this practice is done in the public schools.

	Percentage of Psychologists Choosing Options					Total percentage of A, B & D	B as a percentage of Total of A, B & D
	A	B	C	D	E		
Psychologists, counselors and/or teachers have established resource rooms in which children in special education and slow normal chilren can receive the remedial help they need. (82)	24%	39%	13%	12%	12%	75%	52%
Educable mentally retarded children share some academic subjects with slow normal children, such as remedial reading and math. (64)	46%	23%	7%	13%	10%	82%	28%
Psychologists and/or counselors check to be sure that a program has stated behavior goals and a curriculum to meet these goals before recommending it to school officals and parents (77)	39%	17%	14%	10%	20%	66%	26%

Table 10--Continued

	Percentage of Psychologists Choosing Options					Total percentage of A, B & D	B as a percentage of Total of A, B & D
	A	B	C	D	E		
Educable mentally retarded children share some vocational classes with normal children. (78)	60%	16%	3%	10%	11%	86%	19%
		(14.5%[b])					(18%[b])
Staff development programs are run, which address contemporary issues in special education. (83)	56%	13%	6%	8%	17%	77%	17%
Those who recommend specific programs for exceptional children are likely to visit a program and talk with its staff before making a recommendation (68)	71%	11%	2%	10%	5%	92%	12%
Parents of exceptional children are encouraged to become involved in classroom activities. (68)	49%	10%	8%	9%	24%	68%	15%
Educable retarded children share some extracurricular activities (sports, field trips, etc.) with normal children. (79)	67%	7%	3%	11%	12%	85%	8%

NUMBER = 178[c]

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[a] Items are arranged by rank order of the percentages in column B.

[b] Median Percentage.

[c] There was an average of three missing values excluded from the above items.

it to parents.

When we look at the amount of normalization psychologists perceived since PARC as a percentage of the total normalization they perceived, we find small but important changes. Twenty-eight percent (of 82%) associated their systems' inclusion of retarded children in regular academic classes with the advent of the reform. Nineteen percent (of 86%) believed their inclusion in vocational classes followed the reform. The percentage of psychologists who chose both of these items is above the median percentage who see change coming about since _PARC_. Yet only 8% (of 85%)--well below the median--felt the inclusion of educable children in regular extra-curricular activities happened since the reform. This may reflect the fact that schools have always found it easier to integrate retarded children in the non-academic aspects of their program. But it also suggests that some systems, at least, have taken the principle of normalization to heart, and have moved toward applying it to the more difficult vocational and academic areas. The same may be true for appropriateness. On an item designed to tap it directly, 26% of the 66% who reported psychologists or counselors check on a program's objectives and curriculum before recommending it, indicated the practice had come about since _PARC_.

Psychologists reported less change following the reform in practices that traditionally have been more marginal to the school. Only 13% of the respondents associated the creation of staff development programs, focused on special education, with the signing of the

Consent Agreement. Eleven percent linked the reform to the practice of visiting special education classes before recommending them as placements. Only 10% related the involvement of parents in the activities of special classes, and only 7%, the involvement of EMR children in extra-curricular activities to the Consent Decree. When considered as a percentage of the total number of psychologists who said these practices exist in school systems, the picture is much the same. Psychologists reported least change after the reform among practices which they saw as least prevalent in general.

These findings indicate that even among practices embodying the spirit of the reform, and not specifically mandated by it, those most related to its principles of normalization and appropriateness appear to have received most attention. Others, though arguably relevant to enthusiastic implementation, fared less well. Since those practices were the ones farthest from the usual activities of schools, this suggests that it may be much more difficult to get schools to introduce new practices through legal reform, than to codify and elaborate old ones. This may be especially true when the practices involved are only marginally under the school's control (for example, parental involvement in the classroom) or requires a significant new expenditure of energy on the part of professionals who already view themselves as overworked (Dworkin, 1976; Kuriloff, 1975; Weatherby & Lipsky, 1977). Certainly school psychologists fall into that category. In the following section we will examine their perceptions of how the reform in Pennsylvania affected them.

Impact on the School Psychologist

Psychologists' Attitudes Toward the Potential of Retarded Children

PARC rested on a relatively new, optimistic view of retarded children. Its success depended in part on whether or not school psychologists shared that view. Table 11 (pp. 80-81) describes their responses to a number of questions designed to elicit their attitudes. The picture it presents is somewhat mixed.

Only 60% of the psychologists agreed with PARC's extension of public education to severely retarded children. Of the rest, 9% believed it should be restricted to educable and normal children, and 31% that it should not be extended beyond the trainable retarded. Almost 35% of the psychologists believed that only normal and educable children can attend regular schools. Yet a substantial number felt that trainable (45%) and even severely retarded children (21%) can attend if they are provided with special instruction. Another way of saying this is that substantial minorities believed, on the one hand, that public education should be restricted to relatively high level children, and on the other hand, that even severely retarded children may be housed in regular schools. Yet a large majority of psychologists (88%) believed that educable youngsters should be integrated with normal children as much as possible. There is, perhaps, also some irony in their overwhelming agreement (98%) that educable children are indistinguishable from normal children outside the classroom, and their almost equally unanimous agreement (89%) that only normal children can be expected to attain their age and grade level academically. Finally, while the state's plan for severely and profoundly retarded children (Pennsylvania State Departments of Education and Public Welfare, 1972b) clearly envisions as obtainable objectives the mastery of such concept as numcrosity and the overcoming of frustration to complete assigned tasks independently, only about half of the psychologists shared these goals--perhaps realistically, given the semantic problems involved in defining various categories of retardation (Dunn, 1973). The other half thought that such accomplishments could be expected only from educable or normal children.

The rest of the picture is more in accord with the vision of retarded chilren underlying PARC. Eighty-eight percent of the psychologists believed trainable children can function in a sheltered workshop and 12% extended this to severely retarded children. Seventy-five percent of the psychologists believed trainable children can master self-help skills, 24% stating that this also applied to the severely retarded. It seems reasonable to infer from this that psychologists also believed most such children can learn what is necessary to function relatively independently; dressing, making small purchases, and negotiating the ordinary transactions of everyday life--goals certainly embedded in the reform.

School Psychologists' Knowledge of PARC

Even an optimistic reading of psychologists' attitudes toward retarded children might count for little if they were ignorant of the

Table 11

School Psychologists' Attitudes Toward the Potential of Retarded Children

	Percentage of Psychologists believing that a particular category of child is the lowest to fit the accompanying Descriptive Statement.			
	Normal Child	Educable Retarded Child	Trainable Retarded Child	Severely Retarded Child
None of these children have problems so severe that they need be denied the benefit of a public education. (26)	3%	6%	31%	60%
Most of these children can attend regular schools if they are provided with special instructional programs. (27)	4%	30%	45%	21%
These children should attend classes with normal children to the extent possible. (28)	3%	88%	8%	1%
With sufficient appropriate help these children should be able to read at a primer level, and write simple words. (29)	0%	10%	87%	3%
These children should be able to marry and bear children if they want to. (30)	3%	81%	14%	2%
With sufficient appropriate help most of these children should be able to achieve at their age and grade level academically. (31)	89%	10%	1%	0%

Table 11--Continued

	Percentage of Psychologists believing that a particular category of child is the lowest to fit the accompanying Descriptive Statement.			
	Normal Child	Educable Retarded Child	Trainable Retarded Child	Severely Retarded Child
With sufficient appropriate help these children should be able to function in a sheltered workshop. (32)	0%	0%	88%	12%
Most of these children should be able to master adequate grooming skills, self-feeding, and table manners. (33)	0%	1%	75%	24%
These children can learn to master frustration and complete assigned tasks independently. (34)	4%	43%	49%	3%
With sufficient appropriate help, these children should be able to master concepts such as numerosity. (35)	7%	42%	49%	3%
With sufficient appropriate help most of these children should be able to achieve vocational independence. (36)	0%	84%	15%	1%
Outside the classroom most of these children are indistinguishable from normal children. (37)	2%	98%	1%	0%
NUMBER = 178[a]				

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[a] There was an average of one missing value excluded from the above items.

reform in important ways. Table 12 (pp. 83-84) gives their answers to a test of PARC requirements included within the questionnaire. Again a mixed picture emerges. Over 90% of the psychologists knew that it is the school's responsibility to notify parents of their right to a hearing when their child is assigned to special education, that notification must include the parents' right to call witnesses, cross-examine the school's witnesses and compel attendance of school employees, and that the school must inform parents where they can obtain legal and diagnostic help prior to a hearing. A large majority (87% to 84%) of psychologists also understood that the school must provide a preschool program for retarded children if it provides one for regular children, that a disruptive child cannot be shunted off to special education without a hearing, and that children are entitled to due process hearings whenever they are reevaluated. While most of these questions are answered on the due process form psychologists must fill out every time they evaluate a child, and therefore it is not surprising they answered correctly, the entitlement to pre-school appears in the text of the Consent Agreement (Note 1) and the eligibility of disruptive children for hearings was only decided after a complex set of legal manuevers (Notes 23, 24). We might infer from this that Pennsylvania school psychologists are well informed about PARC. Yet a large number of them also gave incorrect answers to questions about material of approximately equal complexity.

On a question made difficult by the fuzziness of the language in the Consent Decree (Kirp, Buss & Kuriloff, 1974) and later due

Table 12

School Psychologists' Knowledge of PARC

	Percentage Indicating Statement is		
	True	False	Don't Know
Where the school provides a program of preschool education retarded children are entitled to a program of equal scope and merit. (85)	87%[a]	5%	8%
Before a child is assigned to any special education program parents are notified of their right to a hearing. (86)	93%[a]	5%	1%
All children in special education must be reevaluated every three years whether a reevaluation is requested by the parents or not (87)	94%	5%[a]	1%
A child who is disruptive in class can be placed in special education without a hearing. (88)	10%	84%[a]	6%
Each time a child in special education is reevaluated he is entitled to another hearing. (89)	84%[a]	12%	4%
Parents are notified of their right to call witnesses, cross-examine the school's witnesses, and compel the attendance of any school official at a hearing. (90)	92%[a]	3%	5%
A due process hearing is held at a time and place convenient for school administrators, providing the parents are given adequate notice. (91)	50%	38%[a]	11%
It is the school's responsibility to inform parents where they can obtain legal aid, medical and diagnostic services, and give them the address of the nearest PARC office, before a hearing. (92)	93%[a]	4%	3%

Table 12--Continued

	Percentage Indicating Statement is True	 False	 Don't Know
If the school presents a program which is certified as being adequate by the state, it has fulfilled its responsibility to the child. (95)	33%	56%[a]	11%
NUMBER = 178[b]			

[a] Designates the correct response.

[b] There was an average of one missing value excluded from the above items.

process appeals decisions (Notes 14, 15, 16) 35% of the psychologists answered incorrectly, that the school has fulfilled its responsibilities under PARC when it recommends a program certified as adequate by the state. (Such programs must be shown to be both appropriate to the child's needs and adequate to meet them.) On the much simpler question of whether a hearing must be held at the convenience of the school or parent, fully half of the psychologists answered in favor of the school. Worst of all, the vast majority (93%) believed reevaluations must take place every three years, although the Consent Decree explicitly states they shall be carried out every two years. Perhaps in these responses we see psychologists' tendency to misread requirements in favor of the school. Certainly, such a tendency in favor of themselves is evident on the reevaluation question, for no single aspect of PARC added more work to their own load than the two year requirement (Kirp, Kuriloff, Buss, 1975; Appendix I, p. 1).

Importance of Child Versus System Oriented Placement Criteria

PARC sought to make schools consider children more and their own organizational imperatives less. A central focus of such a shift is the criteria psychologists employ when making placement decisions. Tables 13 (pp. 86-87) and 14 (p. 88) describe the degree of importance Pennsylvania psychologists ascribed to various child and system oriented criteria.[5] We find it striking when comparing the two tables, that the median percentage (37%) of those who felt child-oriented criteria were of major importance is almost twice the median

Table 13

Degree of Importance Pennsylvania School Psychologists Attach to Child-Oriented Placement Criteria[a]

	Percentage of psychologists indicating criterion is of:			
	A. Major Importance	B. Moderate Importance	C. Minor Importance	D. Little/no Importance
Intelligence Quotient (full scale score) (127)	61%	37%	1%	1%
Content and quality of special education program into which the child might fit (appropriate behavior goals, necessary staffing, necessary resources, presence of an evaluation component, etc. (139)	59%	34%	5%	2%
Emotional stability (129)	50%	42%	5%	3%
Social maturity and development (128)	42%	53%	4%	1%
Current report of other professionals, such as doctors, psychiatrists, speech therapists, etc. (132)	39%	50%	10%	1%
Achievement as measured by tests such as WRAT. (126)	(37%)[b] 35%	51%	12%	2%
Perceptual motor development (130)	34%	52%	13%	1%
Achievement as measured by school Grades. (125)	34%	41%	19%	5%

Table 13--Continued

	Percentage of psychologists indicating criterion is of:			
	A. Major Importance	B. Moderate Importance	C. Minor Importance	D. Little/no Importance
Family background, including social class, stability, ability to understand the special needs of their child, the child's effect on other family members, their wishes for their child (138)	26%	40%	25%	9%
Sex and age (131)	17%	34%	27%	22%
NUMBER = 178[c]				

[a] Items are arranged by rank order of the percentages appearing in column A.

[b] Median.

[c] There was an average of less than one missing value excluded from the above items.

Table 14

Degree of Importance School Psychologists Attach to System Oriented Placement Criteria[a]

	Percentage of Psychologists indicating criterion is of:			
	A. Major Importance	B. Moderate Importance	C. Minor Importance	D. Little/No Importance
Availability of needed remedial services in the regular classroom (speech therapy, etc.) (136)	43%	42%	11%	5%
Availability of remedial services in the special education classroom (137)	43%	42%	11%	4%
Attitude and support of teaching and counseling staff in the schools. (134)	19%[b]	49%	25%	7%
Previous school records. (135)	17%	52%	28%	3%
Attitude and support of administrative officials in the schools. (133)	11%	40%	37%	12%
NUMBER = 178[c]				

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[a] Items are arranged by rank order of the percentages appearing in Column A.

[b] Median.

[c] There was an average of less than one missing value excluded from the above items.

percentage (19%) of those who believed the same of system-oriented criteria. In no case did over 50% of the psychologists indicate a system-oriented criterion was of major importance, while in three cases (out of nine) over 50% designated child-oriented criteria--including the child's full scale I.Q., emotional stability, and the content and quality of the potential program--of major importance. Again, the median (89%) percentage of psychologists indicating that child-oriented criteria were of major or moderate importance, was fully 20 points higher than the similar median (69%) for system criteria. Conversely, the median (31%) percentage of psychologists indicating that system criteria were of minor, little or no importance was three times the median (11%) percentage of those making the same claim for child-oriented criteria. It is clear from these figures that Pennsylvania psychologists favored child over system-oriented placement criteria.

Within each table we also find important patterns. Over 90% of the psychologists stated that a child's intelligence quotient, social development, and emotional stability were of at least moderate importance in making placement decisions. But over 90% also saw the content and quality of a potential placement as important. Only slightly fewer psychologists indicated that achievement tests (86%) perceptual and motor development (87%) and the current reports of other professionals (89%) were at least moderately important. Taken together, this suggests that they tried to take into account both a rounded picture of the child and of the programs they were considering for him or her, before reaching a conclusion. In contrast, they were more skeptical about the importance to the process of the child's ascriptive characteristics--age, sex, and family background. This seems appropriate in light of both the legal and psychological questions which have been raised about the use, and misuse, of such criteria.

When we examine the system oriented criteria, only the availability of needed services emerges as at least moderately important to the vast majority (85%) of Pennsylvania's psychologists. Sixty-eight percent of them felt the attitude and support of the teaching and counseling staff were of at least moderate importance. Perhaps because they are neither directly subordinate to, nor in frequent contact with line school administrators, only a little over half of the psychologists believed their attitudes and support were of moderate or major importance. Finally, although the vast majority of the psychologists (89%) ascribed either major or moderate importance to information about the child supplied by independent professionals, relatively fewer (69%) said the same of previous school records, and of these, only 17% claimed they were of major importance.

Taken together Tables 13 and 14 suggest that, within the context of PARC, Pennsylvania's school psychologists appear to have struck a reasonable balance between the needs of children and the organizational realities of schools. In making placement decisions, they reported relying most heavily on the assessment of children's intellectual, academic, emotional and social development, together with the content and quality of the possible program. But they do not appear to have lost sight of the practical problem of the availability of programs and services, even though an idealistic reading of the reform might suggest such decisions should be made without taking current resources into account. Finally, they reported relying least on those criteria least in keeping with the reform--the wishes of administrators and the ascriptive characteristics of children.

Role Change

In large measure, PARC's success depended on the capacity of school psychologists to develop a broader conception of their role. Specifically, it required increased consultation within both regular and special education. It also demanded a much more comprehensive approach to evaluation, a greater sensitivity and willingness to work with parents, and the ability to develop and evaluate programs. Conceptually, these diverse functions represent three key segments of the psychologists' role--consultation in mainstream classes, consultation in special education classes and assessment practices--and provide a convenient way to organize the presentation of our findings.

Role Change in Mainstream Consultation

Table 15 (pp. 92-93) presents psychologists' responses to questions concerning their work in classrooms for normal children. There are four striking things about the table. The number of psychologists who reported no change since PARC in this component of their role remains relatively high (median 45%) and almost constant across items. The number reporting increasing emphasis declines as the items change

Table 15

Role Changes in Mainstream Consultation since PARC as Reported by School Psychologists[a]

A. This is a part of my role that has received increasing emphasis in the last three years.

B. This is a part of my role that receives approximately the same emphasis today that it received three years ago.

C. This is a part of my role that receives less emphasis today than it did three years ago.

D. This is not a part of my role.

	Percentage of Psychologists Choosing Options			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
Confer with and advise classroom teachers, guidance counselors, and principals with respect to the problems of children in the regular classroom. (97)	42%	46%	5%	7%
Design a program of special help or remedial services for a child having academic or social difficulties in the regular classroom. (98)	35%	46%	5%	15%
Work with the teacher, counselor, and/or principal to insure that the program is implemented, evaluated, and revised as necessary to maximize the likelihood	(32.5)[b]	(45)[b]	(6)[b]	(16.5)[b]

Table 15--Continued

	Percentage of Psychologists Choosing Options			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
of its success. (99)	30%	44%	7%	18%
Follow the progress of a child retained in the regular classroom after testing, providing special services where necessary. (106)	20%	41%	13%	26%
NUMBER = 178[c]				

[a] Items are arranged by rank order of the percentages appearing in Column A.

[b] Median.

[c] There was an average of three missing values excluded from the above items.

from more traditional aspects of consultation to more innovative ones: While 42% of the psychologists reported having given increasing emphasis to conferring with school personnel about the problems of children, only 20% said they had spent more energy monitoring the progress of such children. With the exception of monitoring, few of them described giving less attention to the elements of mainstream consultation since the reform. Finally, the number of psychologists who claimed an element was not part of their role increased as the elements became less traditional. In sum, Table 15 suggests that the reform succeeded in inducing about one third of Pennsylvania's school psychologists to increase their consulting in regular classes, but was not very effective in getting them to expand their conception of consultation to include the vital monitoring function.

Role Change in Special Education Consultation

Table 16 (pp. 95-6)describes psychologists' judgments concerning the changes of emphasis in various elements of their consultation within special education since PARC. Looking at column A first, we find that psychologists reported most changes in their emphasis on developing programs (29%) providing and supervising special services (27%) and following up children once they have been assigned (26%). They reported least changes in their emphasis on evaluating programs (17%), developing curricula (18%), and securing and planning remedial services (17%). While they said almost none of these functions received less emphasis (median 7%) after PARC, the elements that show

Table 16

Role Changes in Special Education Consultation Since PARC as Reported by School Psychologists[a]

A. This is part of my role that has received increasing emphasis in the last three years.

B. This is a part of my role that receives approximately the same emphasis today that it received three years ago.

C. This is a part of my role that receives less emphasis today than it did three years ago.

D. This is not a part of my role.

	Percentage of Psychologists Choosing Options			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
Participate in the development of new programs in special education. (110)	29%	32%	9%	30%
Supervise or provide special services to special education programs that address the needs of children with certain specific disabilities (i.e., all trainable mentally retarded classes, all brain injured classes, all multiply handicapped classes, etc. (113)	27%	23%	6%	43%
Following the progress of a child assigned to special education after testing by providing special services necessary. (107)	26%	49%	7%	18%

Table 16--Continued

	Percentage of Psychologists Choosing Options			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
	(22%)[b]	(32.5%)[b]	(6.5%)[b]	(41%)[b]
Particpate in the development of new curriculum and special materials to be used in special education programs in the schools. (111)	18%	33%	9%	41%
Secure, plan, or administer remedial services in the special classroom such as speech therapy, physical therapy, medical services, etc. (109)	17%	37%	6%	41%
Evaluate existing special education programs at the school district or intermediate unit level. (112)	17%	23%	5%	55%
NUMBER = 178[c]				

[a] Items are arranged by rank order of the percentages appearing in column A.

[b] Median.

[c] There was an average of three missing values excluded from the above items.

the least increase were also the ones the largest percentage of psychologists said were not part of their role: 55% said program evaluation was not part of their role; 41% said that neither curriculum development nor securing remedial services were. This pattern is reflected in the percentage of psychologists who reported they had maintained the same emphasis since PARC, with the highest percentages in this column (B) also corresponding to the highest percentages in column (A). This suggests to us that psychologists distinguish between those aspects of their role that traditionally have been included in their conception of consultation within special education and those that are new. Apparently, the reform has been more successful when its implementation depended on the former rather than the latter.

Role Change in Assessment Practices

Table 17 (pp. 98-99) presents elements of the role having to do with assessment. Here, not surprisingly, the most dramatic change involved the reform created need to prepare and give testimony at due process hearings.[6] Psychologists also reported giving more emphasis to other mandated aspects of assessment. Forty-seven percent said they were spending more time filling out forms detailing their testing, 43% that they were conferring more with parents following testing, 32% that they were giving more attention to making specific program recommendations and 31% that they were putting more energy into reevaluating children already assigned to special education. They reported much less change in the emphasis they gave to testing

Table 17

Role Changes in Assessment Practices Since PARC as Reported by School Psychologists[a]

A. This is a part of my role that has received increasing emphasis in the last three years.

B. This is a part of my role that received approximately the same emphasis today that it received three years ago.

C. This is a part of my role that receives less emphasis today then it did three years ago.

D. This is not a part of my role.

	Percentage of Psychologists Choosing Options:			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
Testify or prepare testimony for a due process hearing involving the appropriate placement of a child. (116)	70%	18%	3%	9%
Complete forms following testing that report measures of intelligence, achievement social maturity and development, emotional development, and perceptual motor skills. (101)	47%	38%	5%	9%
Confer with parents to report and explain test results, and/or make specific recommendations regarding the placement of their child. (105)	43%	53%	3%	2%

Table 17--Continued

	Percentage of Psychologists Choosing Options:			
	A. Increasing Emphasis	B. Same Emphasis	C. Less Emphasis	D. Not part of Role
Make specific program recommendations for children tested and found to be in need of special education. (104)	32%	63%	2%	2%
Reevaluate children who have previously been assigned to special education. (108)	31% (31.5%)[b]	52% (55%)[b]	5% (5%)[b]	13% (7.5%)[b]
Visit special programs to determine their suitability for an individual child in need of special education. (103)	25%	58%	10%	8%
Write reports describing test results and specifying educational needs for those children tested. (102)	23%	66%	7%	4%
Test children who have been referred by school personnel, outside agencies, or their parents. (100)	19%	65%	9%	7%
NUMBER = 178[c]				

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[a] Items are arranged by rank order of the percentages appearing in Column A.

[b] Median.

[c] There was an average of three missing values excluded from the above items.

referred children (19%), to writing up testing reports (23%)--presumably areas that had always received much of their attention--and to visiting programs to determine their suitability before assigning children (25%). That few psychologists said any of the elements have gotten either less of their attention (median 5%) or were not part of their role (median 7.5%) shows how much the assessment function remains at the heart of school psychology. It also suggests, once again, that PARC has been most successful where it mandated changes that are compatible with school psychologists' traditional role.

How the Reform Differentially Affected the Three Segments of the Role

Table 18 (p. 101) makes this point in relation to all three segments of the role we have been discussing. Here, the rows indicate the median percentage of psychologists choosing a particular option for each component of the role. While approximately the same percentage reported giving each component both increasing and less emphasis after PARC, more said they gave the same emphasis to assessment (median 58%) than mainstream consultation (median 45%) or special education consultation (median 33%). But the largest differences appear in row D, where a median of 7% reported that assessment was not part of their role, as against medians of 17% and 41% who made the same claims for mainstream and special education consultation. This suggests that even in areas where its implications for practice are quite explicit, PARC has had difficulty reaching an important number of school psychologists who simply define the areas as lying outside

Table 18

Comparison of Changes Since PARC in Three Segments of the School Psychologist's Role

Median Percentage Reporting	Consultation in the Mainstream	Consultation in Special Education	Assessment
A. Increasing Emphasis	33%	26%	32%
B. Same	45%	33%	58%
C. Less	6%	6%	5%
D. Not part of role	17%	41%	7%

their domain. The picture of the reform's differential impact becomes even clearer when we examine these same results in a slightly different way.

Table 19 (pp. 102-5) presents each function of the role ranked according to the percentage of psychologists who indicated that it has received increasing emphasis since PARC. Looking first at those items above the median, we find that psychologists reported giving increasing emphasis to aspects of their role directly affected by the formal requirements of the reform. The largest number (70%) said they had given increasing emphasis to preparing for due process hearings. But 47% said they were also focusing more on completing forms detailing the results of testing over a broad range of developmental areas. Forty-three percent reported devoting more energy to parent conferences after testing and before placement, 32% to making specific program

Table 19

Rank Order of Functions to Which School Psychologists Report Giving Increasing Emphasis

	Percentage Indicating Aspect is Receiving Increasing Emphasis	Percentage Indicating Aspect is Receiving Same Emphasis	Percentage Indicating Aspect is Receiving Less Emphasis	Percentage Indicating Aspect is not Part of Role
1. Testify or prepare testimony for a due process hearing involving the appropriate placement of a child, (114)	70%	18%	3%	9%
2. Complete forms following testing that report measures of intelligence, achievement, social maturity and development, emotional development, and perceptual motor skills. (101)	47%	38%	5%	9%
3. Confer with parents to report and explain test results, and/or make specific recommendations regarding the placement of their child. (105)	43%	53%	3%	2%
4. Confer with and advise classroom teachers, guidance counselors, and principals with respect to the problems of children in the regular classroom. (97)	42%	46%	5%	7%

Table 19--Continued

	Percentage Indicating Aspect is Receiving Increasing Emphasis	Percentage Indicating Aspect is Receiving Same Emphasis	Percentage Indicating Aspect is Receiving Less Emphasis	Percentage Indicating Aspect is not Part of Role
5. Design a program of special help or remedial services for a child having academic or social difficulties in the regular classroom. (98)	35%	46%	5%	15%
6. Make specific program recommendations for children tested and found to be in need of special education. (104)	32%	63%	2%	2%
7. Reevaluate children who have previously been assigned to special education. (108)	31%	52%	5%	13%
8. Work with the teacher, counselor, and/or principal to insure that the Program (for regular class) is implemented, evaluated, and revised as necessary to maximize the likelihood of its success. (99)	30%	44%	7%	18%
9. Participation in the development of new programs in special education. (110)	29%	32%	9%	30%
	(28%)[b]			

Table 19--Continued

	Percentage Indicating Aspect is Receiving Increasing Emphasis	Percentage Indicating Aspect is Receiving Same Emphasis	Percentage Indicating Aspect is Receiving Less Emphasis	Percentage Indicating Aspect is not Part of Role
10. Supervise or provide special services to special education programs that address the needs of children with certain specific disabilities (i.e., all trainable mentally retarded classes, all brain injured classes, all multiply handicapped classes, etc.) (113)	27%	23%	6%	43%
11. Follow the progress of a child assigned to special education after testing by providing special services where necessary. (107)	26%	49%	7%	18%
12. Visit special programs to determine their suitability for an individual child in need of special education. (103)	25%	58%	10%	8%
13. Write reports describing test results and specifying educational needs for those children tested. (102)	23%	66%	7%	4%
14. Follow the progress of a child retained in the regular classroom after testing, providing special services where necessary. (105)	20%	41%	13%	26%

Table 19--Continued

	Percentage Indicating Aspect is Receiving Increasing Emphasis	Percentage Indicating Aspect is Receiving Same Emphasis	Percentage Indicating Aspect is Receiving Less Emphasis	Percentage Indicating Aspect is not Part of Role
15. Test children who have been referred by school personnel, outside agencies, or their parents. (100)	19%	65%	9%	7%
16. Participate in the development of new curriculum and special materials to be used in special education programs in the schools. (111)	18%	33%	9%	41%
17. Secure, plan, or administer remedial services in the special classroom such as speech therapy, physical therapy, medical services, etc. (109)	17%	37%	5%	41%
18. Evaluate existing special education programs at the school district or intermediate unit level. (112)	17%	23%	6%	55%
NUMBER = 178[b]				

[a] Median.

[b] There was an average of three missing values excluded from the above items.

recommendations for children in need of special education, and 31% to reevaluating children previously placed in special programs. All of these aspects of their role relate to the procedures mandated by PARC to protect children from arbitrary classification and to insure that they receive an appropriate education.

With one exception, the other aspects of the role falling above the median relate to PARC's principle of normalization. Forty-two percent of the psychologists claimed to be giving increasing emphasis to conferences with school personnel about children having problems in the regular class, 35% reported spending more energy designing remedial programs for such children, and 30% reported working more with teachers, counselors and principals to insure those programs were implemented, evaluated and revised when necessary. The final item above the median, and the one falling closest to it is the only one that does not relate directly to normalization. It does, however, fit nicely among items falling below the median.

When we examine those items, we discover they also arrange themselves into two groups involving two components of the spirit of the reform. The first group includes aspects of the role which relate to extending the psychologists' traditional responsibility beyond psychoeducational assessment, classification and planning, to include responsibility for what happens to the child as a result of them. Thus, while there can be no doubt that PARC increased the already heavy assessment burden of Pennsylvania's school psychologists (Kirp, Kuriloff, Buss, 1975), it is somewhat surprising that only a relatively small percentage of them (19%) claimed that testing referred children had received increasing emphasis since its promulgation. PARC also required long and detailed written test reports, specifying each child's educational needs, yet only 23% of the psychologists believed they were giving this aspect of their role increasing emphasis. In this light, it is significant that 25% of the psychologists said they were devoting more energy to visiting special programs to determine their suitability for a given child. Even more important, 26% said they were focusing more on following the progress of children they had assigned to special education. Another 20% claimed they were paying more attention to following the progress of children they had decided to retain in regular classes, and where necessary, to providing them with special services. This suggests that PARC has succeeded in broadening the way at least 20 to 26% of the psychologists' view that part of their role having to do with assessment--and broadening it in a way favorable to the reform.

The second group of items includes aspects of the role which relate to improving the special education children receive. Here again, we find a small trend toward expanding the role in a way that reflects the spirit of the reform. Twenty-nine percent of the psychologists claimed they had given increasing emphasis to the development of new special education programs since the advent of PARC. Another 22% said they had devoted more energy to the direct provision, or at least, the supervision of special services to such programs. Smaller percentages reported they had participated more in the development of new curricula for special education (18%), the securing, planning and administering of remedial services for special classes (17%) and the evaluation of special education programs (17%).

How the Role Changed in Relation to Key Requirements of the Reform

These findings correspond, in broad outline, to psychologists' perceptions of systemic change in relation to PARC. They suggest that the reform has been most effective in altering the practice of school psychology through its formal requirements and principle of normalization. It has had less, albeit important, impact through the subtler implications of its requirements--i.e., through its spirit. Table 20 (pp. 109-10) illustrates this quite graphically. It shows that only a small percentage of the psychologists believed they had de-emphasized important parts of the role since the advent of the reform. The largest number of these (median 9%) saw PARC as having cut into their ability to carry out broad assessments. In contrast, a fairly high and almost constant percentage of the psychologists saw their role as having remained the same since PARC. This is especially true for those aspects of the role related to the spirit of broad assessment (median 58%) and to the reform's formal requirements (median 52%). But almost half (median 46%) of the psychologists also said they were giving the same emphasis to those parts of their role relating to normalization. Only when it comes to activities reflecting the spirit of program development inherent in the reform does the percentage of psychologists saying their emphasis remained the same (32%) drop off relative to other

Table 20

Percentage of Psychologists Who Indicated They Have Given Components of Their Role Differing Emphasis in Response to Key Aspects of the Reform

Item #[a]	Increasing Emphasis	Same[b]	Less	Not Part of Role
Components Related to PARC's Formal Requirements				
114	70	18	3	9
101	47	38	5	9^c
105	43^c	53	3^c	2
104	32	63	2	2
108	31	52^c	5	13
Components Related to Normalization				
97	42	46	5	7
98	35^c	46^c	5^c	15^c
99	30	44	7	18
Components Related to the Spirit of Broad Assessment				
107	26	49	7	18
103	25	58^c	10	8^c
102	23^c	66	7	4
106	20	41	13	26
100	19	65	9^c	7
Components Related to the Spirit of Program Development				
110	29	32^c	9	30
113	27	23	6^c	43
111	18^c	33	9	41^c
109	17	37	5	41
112	17	23	6	55

Table 20--Continued

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[a] The complete stems for these items may be found in Table 19 (pp. 102-05). They are also arranged in numerical order within Appendix II, pp. 10-11.

[b] The percentages given in this column of each quadrant, as well as those under "Less" and "Not Part of Role", are arranged relative to those under "Increasing Emphasis", and are not in rank order.

[c] Column Median.

aspects. Since it is these same activities that the largest percentage (median 41%) perceived as lying outside their role, it seems clear that the reform has had least success in getting psychologists involved with the ongoing education of children. In contrast, it appears it has been most successful in getting them to comply with its more formal, bureaucratic rules and regulations.

Footnotes to Chapter III

1. That this trend accords with previous research tends to support our view, but our interpretation must be viewed cautiously because our wording on item 81 varied slightly from items 65 and 67, and this alone could also account for the difference in percentages of psychologists choosing "B" in 81 versus 65 and 67.

2. These data are on file with the Project and Student Classification and the Law, Graduate School of Education, University of Pennsylvania, 3700 Walnut Street, Philadelphia, Pa. 19104.

3. This increase was also confirmed in the study we refer to in Footnote 2, above.

4. While normalization was, in fact, an explicit formal requirement of PARC, and therefore reasonably can be considered part of its "letter," we have considered it within our discussion of adherence to the spirit of the reform. We reasoned that meeting the letter of the law with regard to normalization could have involved schools simply proposing the higher alternative in the case of a child with borderline test scores. What we wanted to know was the degree to which systems tried to integrate every child assigned to special education. Admittedly, the distinction between letter and spirit here is hazy and our classification debatable. Nevertheless, we do believe that unlike notification or parent conferences, for example--things which either occur or do not--the principle of normalization is more properly considered a guiding ideal than a hard and fast rule.

5. In developing the items to measure child and system oriented criteria we distinguished between views of the child originating in the school and those developed relatively independently, and ideally more objectively, through psychological assessment. Thus, we considered I.Q. and achievement tests, as well as the views of independent professionals, child-oriented criteria, while we considered such things as the attitude and support of the administrative and teaching staff, and school records, system-oriented criteria.

6. Here, the 9% who asserted it is not part of their role are either completely ignorant of PARC, or have worked in districts where no one has had any experience with a due process hearing.

CHAPTER IV

SCHOOL PSYCHOLOGISTS RESPOND TO PARC: PREDICTING ROLE CHANGE

Attempts to reform educational practice through judicial or legislative action usually seek to alter existing managerial or bureaucratic arrangements. In the final analysis, however, their success depends, in large measure, on the willingness of professional educators to implement the new policy. They are the ones who must develop new programs, provide new services, and sometimes change the way they perform their jobs. While the creation of new programs and services may not require personal change, altering one's professional behavior often does. This was certainly the case in both PARC and its legislative progeny, PL 94-142.

PARC included several important requirements designed to achieve equal educational opportunity for retarded children. Beyond demanding the inclusion of all children in public education, it insisted on changes in the ways they were identified, evaluated and reevaluated. But it went even further than this too, actually seeking to influence the curricula the schools offered them. The Commonwealth sought to implement these general mandates through specific rules and regulations promulgated by its Departments of Education and Justice. Compliance depended heavily on the discretion of individual educators, especially school psychologists, acting in good faith to the best of their professional judgment. Yet, here a problem arises. For it often may be that what constitutes a good professional decision also represents a threat to organizational integrity. By consenting to the PARC Agreement--which had been argued on the basis of much research evidence in large measure accumulated by psychologists--the State, with court sanction, was throwing its weight on the professional side of the scales. To the extent that psychologists had been serving the very organizational purposes that PARC (and later, PL 94-142) now sought to change, they would find themselves in conflict. But the actual situation was probably even more complicated than this.

It is useful to think of compliance through professional psychologists in school organizations in terms of both the systems' and the psychologists' sympathy for and compliance with the reform before its inception. The free exercise of psychologists' discretion depended on the unique relationships that existed between them and their particular systems. While prior to the reform the State sanctioned the exclusion of severely retarded children from public education, we know that some systems had long embraced many of its other principles (such as due process and normalization). Other systems had incorporated some, while it was the conduct of still others that had occasioned the suit originally (Dworkin, 1976; Kirp, Kuriloff and Buss, 1975; also Appendix I, p.1ff). It is reasonable to assume that the professional conduct of the State's school psychologists reflected a similar range of compliance before the agreement. For example, some psychologists have always carried out broad assessments, involved parents in planning for their children, and monitored children's progress once assigned to special education, while others have only performed the narrowest psychometric functions (Kuriloff, 1975). For heuristic purposes, then, it is possible to imagine two bi-polar scales of compliance along which both systems and psychologists range.

It is likely that psychologists high in compliance, operating in high compliance systems, experienced little conflict with their organizations. As a consequence, they probably have not had to change their role very much as a result of PARC. High compliance psychologists operating in low compliance systems probably experienced much conflict. The reform actually may have lessened this by sanctioning their behavior. Therefore, they may not have needed to change their roles substantially. Psychologists who were not in compliance with the reform and who worked in districts that were, may have experienced heightened conflict as a result of the reform. Those in this position, who choose to remain in their systems, may have had to change the most. Finally, psychologists who were not in compliance in systems that were also out of compliance probably experienced little conflict. It is likely that they changed their roles only the extent that their systems embraced the reform after it was promulgated.

What accounts for psychologists who reported that they changed their roles? Can such change be predicted? In what follows we describe our efforts to come to grips with this problem. Unfortunately, because we began our research well after the Consent Agreement was signed, we were not able to measure prior compliance directly.[1] Instead, we tried to develop economical measures that we believed might be rationally related to it and therefore would be predictive of role change. Under psychologists characteristics, we looked at personal background variables, professional experience in education, reference orientation, knowledge of the reform, and judgment about the importance of child and system oriented placement criteria. Under system characteristics, we looked at demographic variables that indicate socioeconomic status (median income, median educational attainment) and size (population) as well as the way the systems were organized and their degree of bureaucratization. Employing the stepwise multiple regression procedure (forward selection) of SPSS (Nie, Hull, Jenkins, Steinbrenner, & Bent, 1975) we used these variables to predict the amount of emphasis psychologists reported giving to activities involving consultation in regular and special classes, as well as in the broader aspects of assessment, following the PARC Agreement.

Variables Describing Selected Personal Characteristics of Psychologists

Background Variables

Gender. Gender has been discussed frequently as a determinant of occupational commitment and career pattern (Hansen, 1979; Morgan, 1979; Mulvery, 1963; Prediger & Cole, 1975). Within the field of education, males and females usually have different career patterns, and encounter different responses from both the general public and other school employees as they attempt to establish independent definitions of their roles (Gross, 1975). We wanted to know if the emphasis psychologists reported placing on reform-linked elements of their role varied according to their gender. We also wanted to know how gender varied in relation to all the other independent variables we examined in our attempt to explain our dependent variables--a question which, of course, we asked of each of our other independent variables as well.

Race. The impact of race on career mobility, and on the perceptions of alternatives, is well known. Unfortunately, when we examined our returns, we found so few non-whites in the sample (less than 5%) that we could not use race as a multiple regression variable.

Age. Researchers such as Caplow and McGee (1958) and March and Simon (1958) have demonstrated poignantly how advancement within an organization is often prohibited to one "too young," "too old," or "too beyond his peak." Age also reduces the attractiveness of individuals to other organizations, thus limiting both older persons lateral mobility and ability to increase their internal value by using an outside offer as a bargaining card. Would older psychologists identify more with organizational goals, perhaps at the expense of PARC's more child-oriented focus? Would they be less likely to behave in ways that might bring them into conflict with their systems?

Recency of Highest Degree. Given a reform that depended heavily for its implementation on the professionalism of psychologists, age might prove to be less of a factor than "freshness" of training. We believed that psychologists who had completed graduate education relatively recently--i.e., during a time of major development within the profession of school psychology--might differ from their more traditionally trained colleagues in both their initial commitment to their profession and in their understanding of their role. We thought this also might be true of better educated psychologists, but there was so little variation within the sample (Table 4, p. 49) that we excluded educational attainment from the analysis.

Variables Describing Psychologists' Professional Experience in Education

Years of Service in Other Educational Roles. We were interested in how experience in other roles might relate to role change. On the one hand, we believed that psychologists who had spent time as regular and special teachers, or as counselors, might be more comfortable carrying out the new consultation functions demanded by the reform. On the other hand, we wondered if they might not have a weaker identification with school psychology as a profession and therefore be less likely to experience conflict over organizational demands that ran counter to the reform.

Years of Service to the Current System. Finally, we wondered if length of service, in contrast to absolute age, might not prove to be more strongly related to role change. Certainly, one could reasonably expect an increasing investment in the organization over time, and therefore a growing organizational commitment. But this would not necessarily mean less change. That would depend on the predisposition of the system itself. Certainly too, we could expect psychologists who were employed prior to PARC to have a greater investment in their previous practices--including those PARC sought to reform--than psychologists employed after it. Yet for newly employed psychologists, we would not expect much change in emphasis anyway. On balance then, it seemed likely that length of service would relate positively to role change.

Variables Describing Psychologists' Professional Style

Scale 5: Knowledge of PARC. All else being equal, psychologists' ability to alter their role in compliance with the reform depended, in part, on their knowledge of its requirements.[2] If this were so, score on the due process test (described in Chapter II, pp. 33-34) should make a contribution toward explaining variations in role performance.

Scales 6 and 7: Importance of Child and System-Oriented Placement Criteria. We have already argued (pp. 34-35) that child and system-oriented criteria are not mutually exclusive. On the contrary, we believed that psychologists would arrive at a combination of criteria from among the two sets that best represented their loyalties to system and profession, the degree of their systems' beaureaucratization, and a whole range of personal and situational variables far too subtle to be measured directly. Because the combination they choose represents an important measure of their approach to their jobs, we believed it might explain a unique portion of the variation in their role performance. PARC's child oriented character provided support to child oriented psychologists. If this were true, it should have helped them to do what they already wanted to do. They would therefore report more change. But for some systems and psychologists the reform was also a new, highly upsetting force. It had to be implemented in systems with differing values and priorities. Success could often be highly dependent on the psychologists sensitivity to organizational needs as well. In this case, the importance they placed on system oriented criteria would also predict change in their role.

Reference Orientation. The sociological literature (Blau & Scott, 1962; Dworkin, 1976; Gouldner, 1958-1, 1958-2; Grimes & Sorenson, 1971; Wilenski, 1956) suggests that the decision making of professionals in organizations, in part, may be a function of the degree of their commitment to organization and professional values. Such commitment has been called reference oritentation (Wilewski, 1956). Professional and organizational commitment are independent dimensions. An individual's reference orientation is defined as his or her commitment varies along each dimension, sometimes separately and sometimes together, depending upon his or her personal background, and the structure of the bureaucracy in which he or she is employed.

Scale 9: professional commitment (Appendix III, p. 13). The literature suggests that professional commitment is composed of at least four important components: a service orientation toward clients, a demand for self-regulation and freedom in making professionally related decisions, a desire to spend time and effort improving practices and procedures, and the choice by professionals of authorities outside the organization, such as other professionals, books and journals, as the chief source of values or crtieria in decision making.[3] We measured the strength of respondents' professional commitment by asking them to rate statements covering these areas on a five point Likert scale ranging from strongly agree to strongly disagree. For example, we wanted to know if psychologists would give up their own time in order to make themselves available to parents and students, if they would insist on bending rules when they thought it necessary to do their job properly, and if they would spend a large part of their time solving novel problems and developing new ideas. On the one hand, we thought that such behaviors and the values underlying them could bring a professional into conflict with his or her organization, especially when responding to demands so highly bureaucratized as the formal aspects of PARC. On the other hand, both the behaviors and the values might be highly adaptive, especially in terms of the organizational changes demanded by the reform. We hoped that knowing the strength of the psychologists' professional commitment would help us understand the changing emphasis they reported giving aspects of their role following the reform.

. Scale 10: organizational commitment (Appendix III, p. 14). The literature describes an organizational commitment in terms of at least four components: a belief that maintaining the system is the most important criterion for decision making, a reliance on superiors for support and advice, a faith in experience as the most important aspect of on-the-job competency, and a willingness to abandon one's profession in order to attain institutionally defined success. We wanted to know, for example, if psychologists' first concern when making decisions was to cooperate with colleagues, if they would check with superiors before taking action in novel situations, and if they would be willing to leave their current job for a better position in the same system, even if it meant changing professions. After adapting six statements from the literature that reflected such questions, we asked each respondent to rate them on the same Likert scale we used to measure Professional Commitment. In contrast to individuals with a strong professional orientation, we wondered if such behavior might not bring school psychologists into less conflict with the organization and into more compliance with the formal requirements of PARC, but might not simultaneously impede their ability to comply with its spirit.

Variables Describing the Psychologists' School Systems

Socioeconomic Status

The measurement of SES was somewhat complicated by the way psychological services are organized in Pennsylvania. Some 60% of our respondents worked for intermediate units while the rest worked directly for school districts. No standard measure of SES was available for these two kinds of organizations. However, since every district is under the jurisdiction of an I.U. we could assign district psychologists their I.Us'. SES data. I.Us. are made up of one or more counties. Using data drawn from county census records we recorded the median family income and the median educational level of persons over 25 for each county located in every I.U. in our study. For I.Us. composed of more than one county, we then calculated the mean of its counties' median income and educational levels (a weighted median). Since our regression analysis would enable us to determine their relationship, we used these as separate variables. Of course, because they were formed from aggregate data, far removed from the districts involved, they represented a conservative estimate of SES, and therefore we expected some reduction in their explanatory power. Nevertheless, in most circumstances, we thought school systems in high SES areas would always have been more responsive to the demands of their more educated, wealthy and powerful parents than systems in lower SES areas. If this were true, then a parent-oriented reform such as PARC should have more impact on systems located in lower SES areas, and their psychologists should therefore report more change.

Size of Population

The fact that some psychologists worked in districts, others in I.Us., complicated the measurement of system population in the same way as it had the measurement of SES. In this case, we decided to measure the mean of county populations making up each I.U. We chose the mean, instead of the median, because it gave more weight to I.Us. with at least one heavily populated county. We felt such a population center would color the way the I.U. and its psychologists functioned in the other counties as well. Thus, we assumed that an I.U. with one urban county and several rural counties would function more like a centralized system than an I.U. made up of several rural counties even though the total populations of the two I.Us. were relatively equal.

We believed that the size of the population systems served might have affected the nature of their responses to PARC as much as their SES. Systems with larger populations would have more retarded children and therefore were more likely to have had more programs and services prior to the reform. If so, they might show less change as a result of it: they were certainly more resistent to it (Kirp, Kuriloff, Buss, 1975; Notes 22, 25, 26, 27). Finally, it seemed reasonable to assume that highly populated systems would be more bureaucratically centralized. Centralization is the degree to which decision-making and control of the distribution of resources and services is directed by officials holding high-level supervisory and administrative positions in the schools. It encompasses the locus of decision-making with respect to the performance of functional imperatives by system personnel, the degree of information sharing between system levels, and the degree of participation and cooperation in long-range planning between system levels. We assumed that on average, urban systems were likely to be more highly centralized than suburban systems, which, in turn, were likely to be more highly centralized than their rural counterparts. We wondered if psychologists in the less centralized systems, with their relatively easy communications and lack of organizational and political complexity, would report more change as a result of PARC.

Scale 11: Bureaucratic Formalization (Appendix III, p. 15)

The literature on professionals in organizations (Engles, 1969; Hall, 1967, 1969; Hall & Tittle, 1966; Mansfield, 1973; Reimann, 1973; Samuel & Mannheim, 1970; Wilenski, 1964) suggests that along with centralization, formalization is a central component of bureaucratic structure. We were especially interested in how the emphasis a system placed on conformity to specific written rules and procedures would affect its psychologists' performance. In particular, we wanted to assess psychologists' perceptions of the level of formality of rules governing the provison of special education services to children in their systems. To measure these, we asked them to rate a set of items ranging from "teaching methods used in special education classrooms," to "procedures used for securing parental consent when assigning a child to special education," on a five point Lukert scale whose poles were "Don't know" to "There are a formal set of rules and regulations that must be followed in every case." We included "Don't know" because it suggested that the bureaucracy was not sufficiently strong to impress itself on respondents awareness. Since the items included everything from detailed written procedures required state-wide by the Consent Decree, to decisions left wholly to professional discretion, Scale 11 enable us to measure just how bureaucratic or "rule-bound" psychologists perceived their systems to be.

While we found it intuitively appealing to believe that the more informal the system, the greater the opportunity psychologists would have to alter their roles in compliance with PARC, we believed it was in precisely these districts that they might have conformed spontaneously, before it became the law. If this were accurate, we expected to find a direct relationship between formalization and change. Of course, we would also expect such a relationship if the success of the reform depended on a certain level of formalization. Since PARC relied heavily on procedures to insure its implementation, and more narrowly, to protect children from arbitrary decisions, it seemed likely that more formalized systems might prove more responsive to it. Given a positive correlation, only the overall relationships between the other independent variables could help us decide which of these alternative explanations made the most sense.

Organizational Affiliation

Our final measure of organizational structure stemmed from the fact that our sample of psychologists worked in both intermediate units and school districts. The former are relatively new organizations engaged primarily in the provision of special education and related services to districts which are too small or poor to provide them on their own. Their psychologists tend to be quite experienced but often have to provide services over a vast geographic area. This means they are on their own and have to find ways to extend their effectiveness through consultation. In contrast, districts are usually long established, relatively compact organizations. Their psychologists have an opportunity to get to know other district educators well. They are also more subject to institutional politics than their counterparts in I.Us. Thus, while they often provide more direct services than I.U. psychologists, the services themselves tend to be more defined by organizational imperatives (Dworkin, 1976). Given these differences, it seemed likely to us that the reform would have had more impact on district psychologists than on their structurally more flexible colleagues in the I.Us.

Reliability

We have already described the reliability of Scales 5, 6 and 7 in Chapter II (p. 40 above). Table 21 presents the Alpha Coefficients for the new Scales we introduced in this chapter. Once again the coefficients are based both on the sample of 178 psychologists and a larger sample of 799 Pennsylvania educators (including the school psychologists) we surveyed for another study.

Table 21

Alpha Coefficients for Scales Used to Predict Role Change

Scale No.	Scale Name	Alpha Coefficients for Psychologists N = 178	Alpha Coefficients for All Respondents N = 799
9	Professional Commitment	.44	.44
10	Organizational Commitment	.52	.48
11	Bureaucratic Formalization	.72	.77

Alphas for all three scales either met or were so close to Nunally's (1977) criterion for reliability in exploratory research that we felt free to use them without further modification. The Alphas for the Commitment Scales for both groups were similar. Inspection showed that on both scales, items shared low positive correlations.

Summary of Variables Used to Predict Role Change

Table 22 (pp. 129-32) contains all the variables we used in our regression analyses. Besides giving their identification symbol and name, it describes how they were scored and their possible range of scores. We used all of the variables to predict measures of general role change (Scale 8) role change in mainstream consultation

Table 22

Description of Variables Used in Multiple Regression Analysis to Predict School Psychologists' Role Change in Response to *PARC*

I. Variables Describing Selected Personal Characteristics of Psychologists

Variable ID	Variable Name	Content	Range
A.	Background Variables		
146	Sex	4 = female 5 = male	4-5
149	Age	1 = 60-69[a] 2 = 50-59 3 = 40-49 4 = 30-39 5 = 20-29	1-5
151	Recency of highest degree	1 = 10 or more years ago[a] 2 = 7-9 years ago 3 = 4-6 years ago 4 = 1-3 years ago 5 = less than 1 year ago	1-5
B.	Variables Describing Psychologists' Professional Experience in Educational Occupations		
153	Years of service as a classroom teacher	1 = 10 years longer[a] 2 = 7-9 years 3 = 4-6 years 4 = 1-3 years 5 = never	1-5
154	Years of service as a special education teacher	same as 153[a]	1-5
155	Years of service as a guidance counselor	same as 153[a]	1-5
157	Years of service as a psychologist	same as 153[a]	1-5

Table 22--Continued

Variable ID	Variable Name	Content	Range
160	Years of service in current system	same as 153[a]	1-5
C. Variables Describing Psychologists' Professional Style			
Scale 5	Knowledge of PARC	Add 2 for each correct answer, one for each incorrect answer on items V85, V86, V87, V88, V89, V90, V91, V92, V95 (Appendix III, p. 5)	9-18
Scale 6	Importance of Child Oriented Placement Criteria	Sum of scores for items V125, V126, V127, V128, V129, V130, V131, V132, V138 (Appendix III, p. 6) as follows: 1 = Factor of major importance in forming recommendation 2 = Factor of moderate importance 3 = Factor of minor importance 4 = Factor of little or nor importance.	9-36
Scale 7	Importance of System Oriented Placement Criteria	Same procedure as Scale 6 for items V133, V134, V135, V136, V137 (Appendix III, p. 8)	5-20
Scale 9	Professional Commitment	Average score across items V1, V3, V4, V7, V8, V11 (Appendix III, p. 13) 1 = Strongly disagree 2 = Mildly disagree 3 = Uncertain 4 = Mildly agree 5 = Strongly agree	1-5

Table 22--Continued

Variable ID	Variable Name	Content	Range
Scale 11	Organizational Commitment	Same procedure as for Scale 10 on items V2, V5, V6, V9, V12, V13 (Appendix III, p. 14)	1-5
II. Variables describing characteristics of the Psychologists' school systems			
IUPOP	Intermediate unit population	Mean population of counties making up each I.U.	27,967 - 1,948,608 (people)
IUMIC	Intermediate unit income level	Weighted average of median incomes of counties making up each I.U.	7,596 - 12,747 (dollars)
IUED	Intermediate unit education level	Weighted average of median educational achievement in years of people over 25 in counties making up I.U.	10.90-12.20 (years)
Scale 11	Bureaucratic formalization	Sum of scores for items V14 - V25 (Appendix III, p. 15) as follows: 1 = Don't know 2 = Individual decisions made on case-by-case basis 3 = No specific guidelines, informal procedure followed 4 = Flexible guidelines and general procedure 5 = A formal set of rules must be followed in every detail	12-60

Table 22--Continued

Variable ID	Variable Name	Content	Range
Place	Psychologists' organizational affiliation	1 = Psychologist employed district 2 = Psychologist employed by I.U.	1-2
III. Variables Describing Role Change: The Dependent Measures			
Scale 8	Role Change	Sum of scores for items V97 to V114 (Appendix III, p. 8) as follows: 1 = This is not part of my role 2 = This part of role has received less emphasis 3 = This part of role has received same emphasis 4 = This part of role has received increasing emphasis in last 3 years	18-72
Scale 8.1	Role change in mainstream consultation	Sum of scores on items V97, V98, V99, V106, as in Scale 8 (Appendix III, p. 10)	4-16
Scale 8.2	Role change in Special Education Consultation	Sum of scores on items V107, V109, V110, V111, V112, V113, as in Scale 8 (Appendix III, p. 11)	6-24
Scale 8.3	Role change in Assessment Practices	Sum of scores on items V100, V101, V102, V103, V104, V105, V108, V114, as in Scale 8 (Appendix III, p. 12).	8-32

[a] Because of the way these variables were coded, respondents' scores were inversely related to age, recency of highest degree, years of service in other professional roles in education and years of service to the system.

(Scale 8.1) in special education consultation (Scale 8.2) and in assessment practices (Scale 8.3). These dependent variables are also summarized in Table 22. A more detailed description of each may be found in Chapter II (pp. 35-39).

In the remainder of this chapter we will first describe zero-order correlations among our independent and dependent variables. We will then examine how the independent variables combine to predict role change. Finally, because we believed that the variables describing psychologists and those describing their systems are conceptually distinct, we statistically controlled for one set by forcing it into the regression equation first. By then reversing this procedure we were able to describe the contribution each set made toward explaining variations in our outcome measures.

Predicting Role Change

Relationships Among Predictor Variables

Table 23 contains a correlation matrix depicting the relationships among all the variables used in this part of the study. Aside from some high correlations between obvious variables--such as age and measures of professional experience--it reveals few strong relationships. In part, this may reflect the relatively weak reliability of several of the scales.[1] In the following section, we will use corrections for attenuation to "control" for this. Beyond that, however, scale reliability may have been spuriously enhanced by our use of sampling procedures that enabled several psychologists from the same

Table 23

Correlation Matrix: Predicting Role Change

Variable Type	Variable Name	ID	146	149	151	153	154	155	157	160	Scale 5	Scale 6	Scale 7	Scale 9	Scale 10	IUPOP	IUMIC	IUED	Scale 11	Place	Scale 8	Scale 8.1	Scale 8.2	Scale 8.3
Psychologists' Background	Gender	146	1	.11	.04	.03	-.10	-.12	.02	-.04	.21[a]	-.09	-.17	.02	.06	.04	-.10	-.01	.09	.03	.07	.05	.13	.00
	Age	149		1	.69	.38	.15	.34	.66	.42	.10	-.06	-.02	.05	-.05	-.12	-.02	.10	-.13	.08	.04	.08	.10	-.05
	Recency of Highest Degree	151			1	.30	.09	.17	.78	.52	.06	.00	.05	.08	-.06	-.23	-.02	.10	-.16	.18	.00	.09	.03	-.08
Psychologists' Professional Experience	Years as Classroom Teacher	153				1	.08	.29	.75	.19	.00	-.01	.14	.01	-.08	-.03	.05	.10	-.16	.11	-.05	-.00	.00	-.09
	Years as Spec. Ed. Teacher	154					1	-.18	.01	.15	.00	-.10	-.12	.04	-.14	.02	.14	.01	-.14	-.07	-.14	.04	-.28	-.05
	Years as Counselor	155						1	.18	.22	-.06	.05	.07	.04	-.12	-.01	.00	-.04	-.25	.02	-.10	-.06	-.01	-.14
	Years as Psychologist	157							1	.53	.02	.00	.08	-.01	-.14	-.19	-.13	.03	-.21	.18	.01	.08	-.04	-.08
	Years in System	160								1	-.01	.16	.08	-.09	-.22	-.22	-.01	.14	-.20	.23	-.11	-.01	-.13	-.08
Psychologists' Professional Style	Knowledge of PARC	Scale 5									1	.02	-.12	.15	-.25	-.14	.02	.15	.03	.12	.11	-.08	.21	.07
	Child-Oriented Criteria	Scale 6										1	.48	.17	.05	-.07	-.02	.01	.16	-.01	.11	.11	.10	.05
	System Oriented Criteria	Scale 7											1	.10	.05	-.22	-.23	.02	.02	.08	.07	.13	.05	.01
	Professional Commitment	Scale 9												1	.24	-.03	.00	.02	.08	.03	-.05	-.00	.02	-.10
	Organizational Commitment	Scale 10													1	.02	-.08	.05	.26	.01	-.04	-.03	.05	-.09
System Characteristics	Intermediate Unit Popu.	IUPOP														1	.28	-.34	-.10	-.44	-.17	-.19	-.18	-.05
	Int. Unit Income Level	IUMIC															1	.36	.01	-.30	-.11	-.03	-.16	-.05
	Int. Unit Educ. Level	IUED																1	.14	.07	-.01	.01	-.01	-.01
	Bureaucratic Formalization	Scale 11																	1	-.09	.14	.01	.24	.06
	Psychologists' Organiz. Affil.	Place																		1	-.09	-.11	.00	-.11
Dependent Measures	Over-All Role Change	Scale 8																			1	.75	.73	.82
	Role Change in Main Consult.	Scale 8.1																				1	.34	.51
	Role Change in Spec. Educ.	Scale 8.2																					1	.31
Role Change	Role Change in Assess. Pract.	Scale 8.3																						1

[a] Within this table, $p < .05$ for any correlation of .15 or more.

system to respond to the questionnaire. In part too, the lack of strong relationships may reflect the relative imprecision of our measures of systems' demographic characteristics. Since district census data were not readily available, we had to develop intermediate unit population, income and educational level data by aggregating county census data. While these were perfectly appropriate for I.U. psychologists, they may have reflected only dimly the situation of those psychologists in our sample who worked for individual districts.

Of course, the matrix in Table 23 does contain many moderate and statistically significant correlations. These appear to represent several important patterns among the independent variables. Before describing these, we must again caution the reader that because of the way background and professional experience variables were coded, a higher score meant the respondent was younger, had received his or her degree more recently, or had less professional experience. As a consequence, when these variables are correlated with conventially scored variables such as I.U. median income (which ranges from a low of $7,595 to a high of $12,747) the meaning of the correlation valence is the reverse of what one would ordinarily expect. Thus, a correlation of -.22 between IUPOP and years in system means that respondents who have been employed by systems longer tend to work in I.Us. with larger populations. Uncorrected, this coding makes it very difficult to describe clearly the real relationships that exist among respondents' age, recency of highest degree, years of experience in other professional roles, years of experience in the current system and the other variables in the study. For the sake of clarity, when we discuss these relationships we will use the absolute value of the correlation in order to avoid unnecessary confusion. Wherever this becomes necessary, we will indicate it parenthetically within the text. In the following discussion, all of the correlations, though small, were significant at or beyond the .05 level.

While age was not significantly associated with other variables, Gender and Recency of Highest Degree were. Gender correlated positively with Knowledge of PARC and negatively with Importance of System-Oriented Placement Criteria. Since females were arbitrarily coded as "4" and males as "5", this meant that males scored higher and females lower on the due process quiz. Conversely, females were more likely than males to stress the importance of system-oriented criteria. Recency of Highest Degree was associated with size of the I.U. population (IUPOP), and the perception of Bureaucratic Formalization. It was also correlated with organizational affiliation (Place). This means that psychologists who had obtained their highest degrees more recently were affiliated more often with smaller systems they perceived as less bureaucratic, while psychologists who had had their highest degrees longer tended to belong to larger systems they perceived as more bureaucratic. Psychologists with more recent degrees also worked more frequently for I.U.s while those who had gotten their degrees earlier tended to be employed by school districts.

This same pattern was reflected in the correlations between professional experience in other educational roles, length of service to the current system, and system characteristics. Experience as a classroom teacher, counselor and psychologist, as well as years of service in the system, were all related to perceptions bureaucratic formalization in the system (Scale 11). In addition, experience as a psychologist and years of service were correlated with the size of intermediate until population (IUPOP) and organizational affiliation (Place). Many of these relationships parallel those based upon recency of highest degree since this, as expected, is substantially correlated with years as a psychologist.

Psychologists' reference orientation was related to several important variables. As we had expected, the scales measuring reference orientation--Professional and Organizational Commitment--were positively correlated. But, while Professional Commitment had a small positive relationship with Knowledge of PARC, Organizational Commitment was negatively correlated with it. While Professional Commitment was not related to perception of bureaucratic rules and regulations, Organizational Commitment was. Finally, Professional, but not Organizational Commitment, was positively correlated with choice of child-oriented placement criteria. This supports our theoretical prediction (pp. 47-49 above) that reference orientation does relate to psychologists' perception of bureaucratic formality, the amount of professionally relevant knowledge they acquire, and their approach to making placement decisions.

Besides being related to the reference orientation of psychologists, Knowledge of PARC was negatively related to system size. When corrected for attenuation, it was positively correlated with system educational level. Respondents from smaller systems and from ones with better educated constituents did better on the due process test than psychologists from larger systems, and systems with more poorly educated populations.

As we had assumed, psychologists' judgment concerning the importance of Child Oriented Placement Criteria was positively correlated with their judgment of the importance of System Oriented Placement Criteria. The proportion of common variance they shared (23%) was large enough to be of practical importance. Yet the two scales had different relationships with other key independent variables. Child-Oriented Criteria was related to Years in the System, Professional Commitment, and Bureaucratic Formalization. System Oriented Criteria was not correlated with those variables. It was, however, associated with I.U. population (IUPOP) and I.U. median income level (IUMIC). These findings suggest that the coventional notion of a positive association between bureaucracy, size, poverty and lack of "child-centerdness" bears further scrutiny--especially since these data are supported by the findings we presented in the last chapter that psychologists reported most systemic and personal changes in response to those aspects of the reform which were most formalistic and rule related.

Table 23 also presents the relationships that exist among the study's dependent variables. All three sub-scales are highly correlated with the overall measure of role change. Yet conceptually, each one picks up a different aspect of overall change. We will therefore describe the Overall Role Change scale, and then each of the three sub-scales in terms of their relationship to the predictor variables.

Zero-Order Correlations

Table 24 (pp. 141-42) shows that only one independent variable, I.U. Population correlated significantly (and negatively) with Overall Role Change. With correction for attenuation, Bureaucratic Formalization and Knowledge of PARC also had small positive associations. Because these results are correlational, it is not possible to know for certain whether the role change that was associated with the perceived level of bureaucracy was caused by it, or whether more bureaucratic systems had farther to go in order to comply with PARC and therefore their psychologists reported more change. That change was negatively correlated with the size of the IU population, and that larger systems are often more bureaucratic, suggests Bureaucratic Formalization may be producing change. Recall, once again, that psychologists reported most change for just those aspects of the reform that were most subject to its formal rules and regulations. The fact that psychologists who knew more about those rules reported more change also lends credence to this view.

The picture was similar for Sub-scale 8.1 where again the only significant (negative) correlation was with the size of the system (IUPOP). Correction for attenuation revealed a small positive relationship between change and on the sub-scale and System Oriented Placement Criteria. Once again psychologists from smaller systems reported more change in mainstream consultation. Perhaps they have more time and freedom to engage in this less orthodox component of their role. Certainly our observational studies (Dworkin, 1976; Kuriloff, 1975) support this explanation. We are less certain why psychologists who stress the importance of system-oriented criteria should report more change in mainstream consultation. Since, by definition, they are more sensitive to such things as administrative and teacher support, and the availability of program options, the result may indicate that they are more willing to meet the needs of regular teachers as they struggle with increasing numbers of mainstreamed children.

Stronger, although still quite moderate relationships exist between Sub-scale 8.2: Role Change in Special Education Consultation, and several independent variables. Among variables describing selected personal characteristics of psychologists, Years as a Special Education Teacher, and Knowledge of PARC were correlated with change. Taken together, these findings support Mandel's (1974) argument that knowledge, in this case of both the specific law, and of the general field of special education, is a necessary condition of change.

Table 24

Zero-Order Correlations Between Independent Variables and Measures of Role Changes N = 163

Variable Type	ID#	Variable Name	Correlation with: Overall Change Scale 8	Change in Mainstream Scale 8.1	Change in Special Educ. Scale 8.2	Change in Assessment Scale 8.3
I. Psychologists Charactistics						
A. Background	146	Sex	.07	.05	.13	.01
	149	Age	.04	.08	.10	-.05
	151	Recency of highest degree	.00	.09	.03	-.08
B. Professional Experience	153	Years as classroom teacher	-.05	-.00	.00	-.09
	154	Years as special educ. teacher	-.14	.04	-.28[a]	-.05
	155	Years as counselor	-.10	-.06	-.01	-.14
	157	Years as psychologist	.01	.08	.04	-.08
	160	Years in the system	-.11	-.01	-.13	-.08
C. Professional Style	Scale 5	Knowledge of PARC	.11 (.17)[b]	-.08 (-.13)	.21[a] (.33)[a]	.07 (.11)
	Scale 6	Child Oriented Criteria	.11 (.14)	.11 (.14)	.10 (.13)	.05 (.06)
	Scale 7	System Oriented Criteria	.07 (.08)	.13 (.15)[a]	.05 (.05)	.01 (.01)
	Scale 9	Professional Commitment	-.05 (-.08)	-.00 (-.00)	.02 (.03)	-.10 (-.15)[a]
	Scale 10	Organizational Commitment	-.04 (-.05)	-.03 (-.04)	.05 (.07)	-.09 (-.12)

Table 24--Continued

Variable Type	ID#	Variable Name	Overall Change Scale 8	Correlation With: Change in Mainstream Scale 8.1	Change in Spec. Educ. Scale 8.2	Change in Assessment Scale 8.3
II. System Characteristics						
A. Size	IUPOP	I.U. Population	-.17^{a}	-.19^{a}	-.18^{a}	-.05
B. SES	IUMIC	I.U. Median income level	-.11	-.03	-.16^{a}	-.05
	IUED	I.U. Median educational level	-.01	.01	-.01	-.01
C. Bureaucratization	Scale 3	Bureaucratic formalization	.04 (.16)^{a}	.01 (.01)	.24^{a} (.27)^{a}	.06 (.07)
D. Organizational Affiliation	Place	Psychologists' Organizational Affiliation	-.09	-.11	-.00	-.11

[a] $p < .05$

[b] Numbers in parentheses are correlations corrected for attenuation assuming the reliability of each measure were increased to .85 (Nunnally, 1967, pp. 217-20). .85 was chosen because we believe it represents a reliability level we could expect to attain with reasonable additional attention to the scales. This approach represents a conservative use of correction for attenuation.

Three of five variables describing system characteristics also correlated significantly with Sub-scale 8.2. I.U. size (IUPOP) was related with change in special education consultation as were I.U. median income (IUMIC) and perception of Bureaucratic Formalization. As with overall change and change in mainstream consultation, perhaps psychologists in smaller systems have more time and freedom to change their role then psychologists in larger systems where demands on their time may be greater. This was certainly the case during the early implementation phase of the reform, when psychologists from huge districts such as Philadelphia and Pittsburgh simply could not keep up with the volume of evaluations and reevaluations let alone venture forth in new directions (Kirp, Kuriloff, Buss, 1975; Goldstein & Haggerty, Notes 25, 26, 27). The fact that change as positively associated with the wealth of the system adds further support to this explanation. Finally, as in the case of overall role change, it seems likely that psychologists's perception of the existance of formal rules and regulations may create conditions which enable them to change.

There were no significant relationships between independent variables and Sub-scale 8.3: Role Change in Assessment Practices. After correction for attentuation, only Professional Commitment correlated (negatively) with change. In other words psychologists who had a less strong professional orientation tended to report more change in their assessment practices subsequent to the reform while those with stronger professional commitment tended to report less change. It is conceivable that professionally committed psychologists already did more of what the law later required and therefore felt less need to change in response to it.

Multiple Correlation: The Regression Analyses

The final phase of the correlational part of our study involved using a series of multiple regression analyses (SPSS forward selection procedure, Nie, Hull, Jenkins, Steinbrenner, & Bent, 1975) to see how the 18 independent variables combined to account for overall role change, as well as change in mainstream and special education consultation. Because there were no significant zero-order correlations with the sub-scale measuring change in assessment practices, we excluded it from further analysis.

During the first run against each change scale, we used conventional stepwise, forward selection procedures. On the next run, we forced all the variables describing system characteristics into the equation first, afterward allowing the normal selection criterion to determine their order, as well as the orders of the subsequently entered set of personal variables. On a third run we then reversed this procedure, forcing all variables describing psychologists' personal characteristics in first.

Predicting Overall Role Change. Table 25 presents a summary of the first run against Scale 8. Only variables that made a significant ($p \leq .05$) incremental contribution to the multiple R are included.

Table 25

Multiple Regression Summary: Predicting Overall Role Change

Step	Variable	Multiple R	Multiple R^2	Multiple R^2 Change	Simple r
1	IU Population	.17	.03	.03	-.17
2	Organizational Affiliation	.25	.06	.03	-.09
3	Years as Special Ed. Teacher	.29	.08	.02	-.14

The variable with the highest correlation with Scale 8 was I.U. population. After it was entered, two more variables, one systemic, the other personal, reliably explained further portions of the variation. The first was psychologists' Organizational Affiliation, and the second was their Years of Experience as a Special Education Teacher. Together, they accounted for about 8% of the total variation in role change. When all five system variables were forced into the equation first, only I.U. population and psychologist affiliation made significant contributions to the multiple R. Personal variables added nothing further. When personal variables were forced in first, none reached significance. Thus, once the systems variables are known, personal variables add no reliable predictability. This means that the overall role change psychologists reported appears to have been more strongly related to the type of system they work in than the particular kinds of persons they are.

Predicting Role Change in Mainstream Consultation. Table 26 summarizes variables used to predict change on Sub-scale 8.1 that added significantly to the multiple R.

Table 26

Multiple Regression Summary: Predicting Role Change in Mainstream Consultation

Step	Variable ID	R	R^2	R^2 Change	Simple r
1	IUPOP	.19	.03	-.03	-.19
2	Organizational Affiliation	.28	.08	.05	-.11

Once again, the two variables that added most to the equation were descriptive of the system. Taken together they accounted for approximately 8% of the variance. When personal variables were forced into the regression analysis first, they made no significant contribution toward explaining role change. Conversely, after system variables were accounted for, personal variables added nothing new.

Predicting Role Change in Special Education Consultation. Table 27 reveals a different pattern: both system and personal variables combined to help explain variation in Sub-scale 8.2. Here four variables accounted for approximately 18% of the variance in role change. Previous Experience as a Special Education Teacher

Table 27

Multiple Regression Summary: Predicting Role Change in Special Education Consultation

Step	Variable	Multiple R	Multiple R^2	R^2 Change	Simple r
1	Years as Special Education Teacher	.28	.08	.08	-.28
2	Knowledge of PARC	.35	.12	.04	.21
3	Bureaucratic Formalization	.40	.16	.04	.24
4	Age	.43	.18	.02	-.16

correlated the highest with change in special education consultation. After it was entered, another personal variable, Knowledge of PARC, accounted for an additional 4% of the variation. Bureaucratic Formalization, a system variable, explained an additional 4% of the variance. Finally, Age accounted for another 2%.

Table 28 summarizes the results when system variables were forced into the regression analysis first. Two of these, Bureaucratic Formalization, and I.U. Median Income, accounted for approximately 8% of the variation. The three additional system variables did not reliably increase the multiple R. Nevertheless, two personal variables, Experience as a Special Education Teacher and Knowledge of PARC, did explain an additional 9% of the variance once the first five system variables were known. This means that once key systemic

Table 28

Multiple Regression Summary: Predicting Role Change in Special Education Consultation with System Variables Entered First

Step	Variable	Simple r	Multiple R	Multiple R^2	Multiple R^2 Change
1	Bureaucratic Formalization	.24	.24	.06	.06
2	IU Median Income	-.16	.29	.08	.03
3	IU Population	-.18	.31	.10	.01
4	Organizational Affiliation	.00	.32	.11	.01
5	IU Median Education	-.01	.33	.11	.00
6	Age	-.28	.40	.16	.06
7	Knowledge of PARC	.21	.45	.21	.04

characteristics are known, knowing the number of years psychologists have worked as special education teachers, as well as how much they know about the reform, can reliably explain an additional 10% of the variation in self-reported change in special education consultation.

Table 29 summarizes the results when personal variables were forced into the regression analysis first. The four personal variables which reliably contributed to the Multiple R accounted for 16% of the variation in role change in special education. However, once these were entered, knowing something about system characteristics added nothing new to the explanation.

Table 29

Multiple Regression Summary: Predicting Role Change in Special Education Consultation with Personal Variables Entered First

Step	Variable	Simple r	Multiple R	Multiple R^2	Multiple R^2 Change
1	Year in Special Education	-.28	.28	.08	.08
2	Knowledge of PARC	.21	.35	.12	.04
3	Age	.10	.37	.14	.02
4	Years in System	-.13	.40	.16	.02

Implications of the Regression Analyses for Legal Reform

In large measure, the effective implementation of the PARC reform depended on the capacity of school psychologists to alter their roles in appropriate ways. We used multiple regression analysis to try to identify variables associated with such change. The analyses examined variables that described both school psychologists and the systems they worked in. The results suggest that role change, as measured by psychologists' self-reports, is a highly complex process and that much more needs to be known about it if it is to be made accessible to self-consciously drafted legal reform. For example, it is reasonable to assume that to produce change, reform must affect characteristics under the control of psychologists or schools. Yet of all the personal variables we examined, the only one associated with change, that was also within the psychologists' ability to alter, was their knwoledge of the reform. Should further study confirm the importance of knowledge, dissemination is something courts and legislatures could promote through carefully drafted decisions and regulations. Educational authorities also could foster knowledge through publicity and in-service training. Since knowledge was positively correlated with professional commitment and negatively associated with organizational commitment, it might be possible--although perhaps contradictory to latent organizational interests--for schools to insure it by hiring professionally oriented psychologists. Hiring policies may be the only way to affect the other personal variables associated with role change. These--including age, years of experience as a special education teacher, and years of service to the system--seem to reflect an experience factor outside the control of psychologists themselves.

When we examine variables associated with change that describe school systems, only the degree of bureaucratic formalization is to any practical extent under the control of the organization. Given the findings we discussed in Chapter III, it is quite probable that clearly written, detailed regulations help to promote change. While this is an important finding with direct implications for the ways reforms should be constructed in order to be effective, the moderate correlation upon which it depends means it must be viewed as an hypothesis deserving further study before it becomes the basis of future policy. This is especially true since Bureaucratic Formalization, as we discussed in Chapter III, apparently correlates only with the more conventional aspects of the psychologists' role. The factors associated with the more profound chances envisionsed in PARC are still largely unknown. Perhaps they relate to the underlying professional freedom and abundant resources suggested by the other systemic variables--I.U. population and median income--which proved important in the multiple regressions. What we can say here is that we need to learn much more about the significance for the change process of a systems' organizational structure, as well as its demographic characteristics. What are the mechanisms by which these variables get translated into professional action? Answers to such questions would seem vital if we have any hope of maximizing the changes that externally imposed reform will be effectively implemented.

Footnotes to Chapter IV

1. While we did measure psychologists' perceptions of systems' prior compliance to both the letter and spirit of the reform, the difficulty in distinguishing these from their self-reported role change meant we could not use them to predict each other.

2. Mandel (1974) among others (e.g., Muir, 1967) believes willingness, together with knowledge are necessary conditions for compliance with judicial decisions.

3. In developing Scale 9, we inadvertently left out items measuring this component. In retrospect, this appears to have been an important oversight. By weakening the construct validity of the scale, it may have accounted for its relatively low internal consistency. To the extent this were true, of course, its explanatory power was reduced. We have attempted to compensate for this difficulty by employing a correction for attenuation. For a fuller discussion of the consequences of attenuation, see pps. 139-44 above.

PART III: THE EMERGENCE OF A LEGAL SYSTEM UNDER PARC

CHAPTER V

DUE PROCESS FOR INDIVIDUAL JUSTICE: THE HEARINGS

Research Procedures

Besides creating a substantive right to education, PARC established a set of procedures to protect newly entitled children. Among the more important of these were automatic biannual reevaluation of children placed in special classes, annual reevaluation at parental request, and the right to an impartial hearing for any parent dissatisfied with a school's classification or placement decision.

Due process was PARC's most dramatic innovation. Its advocates saw it both as a way to hold public schools accountable for the education they provided to individual children, and, through its interrorem effects and the development of a system of precedent, as a major vehicle for improving the general quality of education received by all retarded children. How closely has due process in Pennsylvania come to meeting these lofty goals? In particular, we wanted to know how widely the due process hearings were being used, and who tended to use them. Were parents who went through the procedures able to affect their children's education in ways they desired? Were such desired outcomes associated with aspects of their performance within the hearings that were arguable relevant to the truth-determining character of due process?

In order to answer these questions, we did a careful content analysis of the transcripts of the first four years of hearings. In this chapter, we will describe how we went about this and then describe our findings. In the next chapter we will examine the outcome of appeals from these hearings as well as relevant new litigation with the goal of determining if due process under PARC has resulted in a growing body of coherent, controlling law.

Developing the Due Process Coding Instrument

During PARC's first four years, parents requested 480 hearings. One hundred and seventy two of these requests actually resulted in hearings. Because they were scattered all over the state, observing them as they happened presented insurmountable logistical problems. Fortunately, the law required that a written record be made of each hearing. With the assistance of the court appointed Masters[1] and PARC counsel,[2] we were able to obtain permission from the Deputy Attorney General[3] in charge of PARC to acquire transcripts of all hearings. We then collected copies of all those held between the inception of the reform and June, 1975, the point at which we stopped collecting data. We were able to acquire complete transcripts of 168 cases, and these became the data base for our study. After removing all identifying material from transcripts of hearings parents had elected to close to the public, we proceeded with our analysis.

An initial examination of the first 60 transcripts showed they were extremely variable. They ranged from a few pages (representing hearings that lasted for less than an hour) to over two hundred pages (reflecting hearings that lasted for more than a day). In some, a parent showed up with little more than a feeling that his or her child "was not retarded." In others, parents, sometimes represented by counsel, brought many professional witnesses in order to document a sophisticated claim. The form of the hearings varied just as much as their substance. Some resembled court cases in which highly structured presentations were followed by "cross-examination" and "redirect." Others seemed little more than loose parallel monologues, interrupted occasionally by the hearing officer's attempts to clarify and relate them.

In order to bring some order to this kind of complexity, we spent hundreds of hours reviewing and discussing the first sixty transcripts. Out of this process, we developed an instrument that enabled us to code 314 discrete items. These included general information about the hearings, the child, the child's parents or guardian, the school, and the hearing officer. In addition to these descriptive data, the instrument also contained scales which enabled us to measure the quality of adversaries' performance in the hearing, as well as the outcome of the case (as measured by independent ratings of the hearing officers' decisions). We refined the initial set of questions in light of criticisms from law professors, attorneys involved in the PARC case, representatives of interested consumer groups, school officials and hearing officers.

The final revision of our instrument reduced the total number of items from 314 to 207. We dropped some of those we had originally included because they were too expensive to obtain. For example, while we would have liked to have measured the quality of cross-examination to which witnesses were subjected, training people to assess it turned out to take a prohibitive amount of time and energy. In other cases, variables were omitted because they could not be rated accurately. For example, in one draft of our instrument, we asked: "Has the parent seen the school's official report?" We found we were unable to get our coders to agree as to whether or not such an event had occurred. In the end, we were left with a set of 195 variables describing the transcripts, and an additional 12 items describing hearing officer decisions (the completed instrument may be found in Appendix IV, p.1ff).

Training Coders

Because of the complexity of the task, it took us over 50 hours to train an initial team of three coders. In our first sessions, instructions for coding were given verbally. We also gave the coders a coding manual (see Appendix V, p.1ff) and a memorandum stressing the need for care andaccuracy. The coders had previously read a designated transcript, and we had them discuss it in terms of the material to be coded. We then discussed questions and ambiguities until everyone was satisfied on each issue. In this, and subsequent meetings, we kept a careful record of issues and concerns. Later, we used it to refine the coding manual. We then circulated a set of three transcripts, and asked each of the coders to rate the material without consulting with the others. When they had finished, we held another series of meetings to discuss the results. At this point we were delighted to find many fewer differences than we had expected. What discrepencies we did find were discussed until we reached a mutually agreeable solution. Following these sessions, two more transcripts were selected at random, rated and discussed. At this point, the three coders were achieving agreement over 95% of the time.

Establishing Reliability

After training, we selected six transcripts at random and had each of our three coders rate each case independently. In evaluating the results of this test, we divided variables into three groups: (1) factual items such as the date of the hearing and the child's age; (2) items requiring judgment, such as determining the central issues in the case and the central arguments used by school and parent; and (3) scaled items, demanding judgment concerning the quality of parent and school presentations. On items in the first two categories, the three coders agreed 98% of the time. Agreement on individual items ranged from a low of 89% to a high of 100%. On the scaled items, coders agreed an average of 93% of the time. Here agreement ranged from a low of 83% to a high of 100%. Later, when we added two new teams of coders, we compared the internal agreement of each team's members, agreement among teams, and agreement among all individuals. We found no significant differences among any of these combinations.

We followed the same general procedure in testing the reliability with which coders could judge the hearing officers' recommendations. Here we had six new coders rate ten randomly selected cases. We made only two divisions in our analysis of this test, distinguishing between factual and scaled items. Overall, coders agreed 97% of the time on factual items. The scaled items represented the coders judgment of the outcomes of the cases. Coders first had to decide if the dispute involved the child's classification, the content and quality of the proposed program, or both. After making this "yes-no" judgment, they rated the outcome of each issue by comparing what each adversary wanted against what the hearing officer recommended.[4] Adversaries could win completely or partially, share in a compromise, lose partially, or lose completely. In checking inter-coder reliability, we evaluated whether coders agreed on the nature of the central disputes in each case, as well as on their ratings of who won. They achieved agreement on the issues involved in the six outcome scales (parent and school outcome on classification issues, on content-quality issues, and on the case overall) 97% of the time. They reached agreement on rating the six scales 94% of the time. The correlations between parent and school outcomes were so high (see footnote 4) we will only report parent results. Since this still represents an enormous amount of data, we will discuss differences in classification and content-quality outcomes in a separate report.

Having established that the transcripts could be coded with a satisfactory degree of reliability, we proceeded to code all 168 transcripts. Because of their complexity, however, we decided it would be prudent to have each coder checked. This meant that every case was read twice. The job of the checker (the research supervisor and a person selected from each team) was to watch for subjective reactions to particular cases, to pick up any factual errors, and to guard against any idiosyncratic fluctuations in coding due to transitory problems such as illness or fatigue. We used a similar procedure to maintain quality control in coding the hearing officer's decisions.

Describing the Hearings

The capacity of the new legal system set in motion by PARC to give substantive meaning to its "constitutional" terms, and to adopt a decision-making procedure whose roots in law could be said to insure reliability of outcome cannot fully be addressed without attending to both the hearings themselves and the appellate review process. We will discuss the appeals in the following chapter. In examining the hearings, certain substantive issues have obvious import: how, most generally, can the disagreements between parents and school districts be characterized? Another set of concerns focus on the procedures actually utilized to resolve these disagreements. We will consider each type of issue in turn.

The Substance of the Disputes

The 168 hearings held during the years following PARC presented a bewildering diversity of problems. The types of children whose education was the subject of dispute ranged from those imperceptibly different from the "normal" to those for whom learning involved teaching the simplest of body movements. Differences concerning the nature of an "appropriate" education similarly varied, from concern over the efficacy of part-time supplemental instruction in the regular class program to the desirability of institutional versus home care.

Disputes Over Classification. Despite the diversity of the hearings, the point of view of parents was consistently distinguishable from that of school districts. One difference concerned appropriate classification. Where this issue was disputed (and classification disputes were almost always associated with instances of mild, rather than severe, handicap) parents tended to see their children as normal, and to perceive both the label "retarded" and instruction geared to retardation--either in the public school or, perforce, in intermediaate units or state run institutions--as inappropriate. The schools, by contrast, were more prone to categorize borderline children as retarded, and to favor public instruction for retardates. Table 30 shows that parents and schools differed significantly in their placement preferences. In 56 cases--one-third of the sample--parents sought a placement for their child closer to the normal classroom than was currently the case; school districts, by contrast, proposed such shifts in 33 cases--only 20% of the time. In the largest single category of cases--64 out of 168--parents resisted a school proposal to classify the child as retarded, or further to remove him or her

Table 30

Comparison of Parent and School Placement Preferences with Respect to Normalization

		Number of Cases in which Parents Wanted Their Children Placed Up, Same, or Down Relative to Current Placement			
		Up	Same	Down	Total
Number of Cases in which Schools Wanted Children Placed Up, Same, or Down Relative to Current Placement	Up	23	9	1	33
	Same	19	14	4	37
	Down	14	64	20	98
	Total	56	87	25	168
			$X^2 = 59.51$	$P < .001$	

from the mainstream of the school (e.g., by altering his or her classification from educable to trainable).

The tension between parent and school-held positions on classification becomes even clearer when the data are disaggragated by type of child. Table 31 shows that 38% of the children whose cases were reviewed at hearings had been classified as "normal" prior to the school's most recent evaluation (i.e., the one which precipitated the hearing). In almost the same proportion of cases (35%) parents sought to retain the "normal" label. In only 2% of the cases did the school recommend it. Parents' relative aversion to the label retardate, at least as applied to the allegedly mildly (or educable) retarded child, is revealed by the fact that they proposed the classification in

Table 31

Comparison of Classifications Requested by Parent and School, Recommended by Hearing Officer and Presently Held by Child

N = 168

Classification[a]	Child's Present Classification	Classification Parent Wants	Classification School Wants	Classification Hearing Officer Recommends
Normal	39%	36%	2%	7%
Educable Mentally Retarded (EMR)	14%	14%	58%	46%
Learning Disabled (LD)	6%	14%	1%	10%
Socially & Emotionally Distrubed (SED)	4%	5%	1%	2%
Trainable Mentally Retarded (TMR; Including TMR-multiple handicapped & Low Trainable)	11%	13%	17%	15%
Severely and Profoundly Retarded (SMR & PMR including Permanent Homebound Instruction)	7%	11%	10%	11%
Total Percent[b]	81%	93%	89%	11%

[a] This table excludes a variety of classifications with few students in them such as blind, physically handicapped and deaf.

[b] Since some types of children are excluded this total does not add up to 100% of the 168 children involved in the cases we studied.

only 14% of the hearings; school districts were more than four times as likely to recommend EMR placement. Similarly, parents proposed learning disabled (LD) and brain injured (BI) classifications in 14% of the cases, and social and emotionally disturbed (SED) in 5%. Schools, by contrast, suggested these classifications only 1% of the time. Parents may see the LD and SED labels as less stigmatizing than the EMR label (Dole, 1964; Milofsky, 1970) and therefore prefer them. The issue for schools may turn both on the availability of space: there were many more EMR than LD, BI, or SED placements earlier in the decade; and state mandated definitions: children with IQs below 80 simply do not qualify for LD in Pennsylvania. In short, Table 31 shows that school districts and parents saw the same, relatively normal children, quite differently. But it also shows that among the seriously handicapped, disputes over classification were considerably fewer. This would be expected from the relatively greater ease of identifying the seriously retarded.

The bases of schools' classification decisions. The two groups viewed very different factors as relevant to classification. School districts tended to equate retardation with performance on one of several IQ tests. In 45% of the hearings, the schools argued that the child's IQ did not warrant either the child's present placement or the placement desired by the parents.[5] In 148 of the hearings, one or more school psychologists testified for districts. On average, the schools introduced into evidence the results of three diagnostic tests--in almost all cases intelligence tests of one sort or another.

The bases of parents' classification decisions. In contrast to the schools, parents only used their childrens' IQs in their arguments in 15% of the hearings. Almost always this involved demonstrating that retests they had initiated revealed a higher score than that found by the school (Appendix VI, p. 1). Parents rarely called psychologists as witnesses (about one-fourth as frequently as schools). Their arguments concerning what constituted a proper classification were much more diffuse. In 12% of the cases, they noted that their children performed better and appeared more normal at home than in school (Appendix VI, p. 1). They bolstered this claim with non-professional witnesses: almost 90% of parents' presentations, but less than 4% of school presentations, included nonprofessionals. Parents also worried about the stigma, a difficult-to-measure adverse effect, associated with retardation. In 23% of the cases, parents noted this as their own concern; in 8% the children themselves were held to perceive the stigma. In both instances, stigmatization was viewed as a reason for not identifying children as retarded. By constrast, school arguments never made reference to the problem of stigma (Appendix VII, p. 1).

Disputes Over Placement. The types of placements desired by parents and school districts also reveal systematic differences, described in Table 32. Parents divided into two broad camps: those who wanted placement within the public school system and those who sought public support for a private placement. The first group, presumably includes parents of children with borderline IQs, who were

Table 32

Comparison of Percentage of Placements Requested by Parent and School, Recommended by Hearing Officer, and Presently Held by Child N = 168

	Present	Parent Wants	School Wants	Hearing Officer Recommends
Public School Classroom	54	65	51	57
Intermediate Unit Classroom	8	10	34	23
Private Facility	18	20	1	8
State Facility	2	2	4	3
None	17[a]	3	11	10[b]

[a] These include children who were actually excluded at the time of the hearing, who were getting homebound instruction, or whose age made the question of inclusion a point of debate.

[b] In 5% of these cases the hearing officer actually recommended exclusion from public schools, completely contrary to the PARC mandate. In the other 5% the hearing officer recommended some form of home-bound instruction.

particularly concerned about stigma, and thus resisted identification of their children as retarded. The second group included parents of seriously retarded children, who were satisfied with their childrens' private placement, as well as those who saw such programs as superior to options available through the public schools. School districts were slightly less enthusiastic about placement within district-run public schools. They almost never proposed private placement--in part, it can be presumed, because of its greater expense--and were inclined instead to recommend other publicly-run programs, particularly those run by intermediate units.

The bases of schools' placement decisions. The types of arguments concerning placement relied upon by parents and school districts were also distinct. Schools tended to argue that children were creating a problem in their present placements: in 38% of the cases, they noted that the children were behind the rest of the class in their work; in 16% of the cases, they mentioned childrens' disruptive behavior; while in 11% of the hearings, they referred to the excessive time demands children were making on classroom teachers (Appendix VII, p. 1).

The bases of parents' placement decisions. In 20% of the cases, schools justified the proposed change of placement by noting that it would provide more needed individualized instruction. It was just this point that parents disputed. In more than one-third of the cases, they expressed fears that their children would not learn anything in the proposed placement--indeed, that they might well regress. In 30% of the hearings, parents also noted that their childrens' specific exceptionalities would not be addressed by the proposed placement, pointing out the lack of needed professional staff or remedial services. At least within the hearings during the first four years, parents apparently had little confidence in the schools' ability to offer what they believed their children needed (Appendix VI, p. 1).

The Hearing Officers' Decisions. With respect to both classification and placement, the hearing officers' findings fell between the desires of parents and those of school districts. Nevertheless, the districts were substantially more likely to prevail than were the parents.

Classification decisions. Table 31, p.162 shows that while parents wanted their children classified as normal 36% of the time, schools asked for it in only 2% of the cases and hearing officers recommended the normal label in 7% of the hearings. The reverse was true when it came to disputes over labeling children educable mentally retarded. Here, parents requested EMR classification in 14% of the hearings, while schools asked for it in 58%, and hearing officers recommended it in 46%. Hearing officers were closer to parents when it came to designating children learning disabled: parents requested it in 14% of the hearings and hearing officers recommended it in 10%, while schools asked for it in only 1%. The situation was much more balanced when it came to questions concerning the trainable mentally retarded classification. Parents wanted their children classified as TMR 13% of the time, schools suggested it 17% of the time, and hearing officers recommended it 15% of the time. There were no practical differences in the number of cases in which the three groups thought children should be classified as severely or profoundly retarded.

Placement decisions. Table 32 (p. 165) shows that hearing officers took a much more balanced position between the demands of parents and schools with respect to placement decisions. Parents argued for public school classrooms in 65% of the cases, schools in 51%, and hearing officers recommended them in 57%. Parents wanted their children placed in intermediate unit classrooms in 10% of the hearings, schools in 34%, while hearing officers recommended them in 23%. Finally, parents asked for private school placement 20% of the time, while schools requested it only 1% of the time, and hearing officers recommended it 8% of the time. Once again we see a pattern in which on the one hand, parents desired the most normal setting possible for children whose retardation was in dispute, and the most costly alternative for seriously retarded children. Schools, on the other hand, argued for less normal settings for children whose retardation was in dispute and more normal (and less expensive) settings for seriously retarded children.

Who won? When hearing officer decisions are compared to what parents demanded, we find that overall, parents won--in whole or in part--in 59 out of 168 cases, losing in 104. In five hearings, the decision was a compromise.[6] In other words, parents won something in 35% of the hearings. When the total number of cases are disaggregated into those involving disputes over classification and those involving disputes over the content and quality of programs, a slightly clearer picture emerges. Of the 114 cases in which classification issues were central, parents won 33, or 28% of the time. Of the 87 cases involving content-quality, parents won 43, or 49% of the time.[7] Content-quality questions were much more likely to arise in relation to more seriously retarded children, many of whom had a long and often rocky history with the public schools prior to PARC. Perhaps in the hearing officers' decisions we find an effort to right past wrongs, wrongs that were especially clear and convincing in comparison to the unproven dangers of EMR placement (Flor, 1978; Jones, 1972).

The Process of Dispute Resolution

In evaluating the PARC hearings, process is quite as relevant as outcome. What can be said, in aggregate terms, about the quality of the adversaries' presentations and the hearing officers' evaluations of evidence? Can the process be described as encouraging rational, trial-type decision-making? Or differently, did it degenerate into legalism, producing a regime in which rule-mindedness served as an end in itself?

How the Parties Arrived at Recommendations.

The schools' recommendation process. School districts generally adopted a more legalistic approach than did parents, with respect to the process by which they reached a substantive recommendation. In most of the cases, the districts met the letter of what PARC required. They undertook a psychological evaluation, but the evaluation was a broad-based one (that is, it looked at various aspects of intellectual and personal functioning) in only 26% of the cases. Similarly, while in the substantial majority--80%--of hearings, a prescription followed from the evaluation, that prescription was individually tailored in only 18% of the cases. Finally, while in 61% of the cases prescriptions were the basis for programmatic recommendations, in just 10% was the program which expressed it created to meet individual needs. With respect to this crucial task, most districts did what they had to do in order to satisfy the formal PARC mandate. Relatively few went further to produce that individualized remedy, based on multiple assessment criteria, to which the PARC "appropriateness" standard aspired.

The parents' recommendation process. Parents, in contrast, almost always argued either for non-stigmatizing alternatives (i.e., for normal classification, or failing that, for mainstreaming EMR children) or for individual education programs. When arguing for tailored programs, 14% of the parents asked for private facilities and 16% asked the schools to set up entirely new public school programs for their children. Similarly, 45% of the parents asked for supportive services. Of these requests, 21% were for relatively easily obtainable services such as psychiatric counseling, and 11% more were for things that did not exist within the district, such as hydro-therapy.

To support their requests for normal classification and mainstreaming, parents relied much less than schools on IQ scores. Instead, they used a variety of practical arguments (such as what the child could actually do at home or on the playground) and supported them with non-professional witnesses such as a babysitter, a sibling, or a hairdresser. To support their demands for special programs and services, parents employed their own observations concerning the inadequacies of the current placement. For example, they might argue that other children in the program were different from their own child. They also voiced their fears concerning the proposed program. It was not unusual for parents to argue that children in the new program would teach their child bad habits, that their child would not learn anything, or that he or she would regress (Appendix VI, p. 3). Parents buttressed these demands by calling on both non-professional witnesses, and for those cases involving rare and expensive services, by bringing in their family physician or an official of the private school they hoped to use as an alternative or in which their child was already placed.

How the Adversaries Made Their Case. We judged the quality of the adversaries' performance within the hearings by looking at whether or not they were represented by counsel or other advocate, the number and kind of exhibits presented, the number and type of witnesses employed, and the quality of the overall presentation. We also rated the effectiveness of the parents' questioning of school officials.

Representation. Parents were only represented by a lawyer in 42% of the hearings. In an additional 14% some other person, such as a lay advocate or friend directed their case. Schools, in contrast, were represented by counsel in 67% of the cases. Interestingly enough, their lawyers only took charge of the case 52% of the time; there were school lawyers present in 113 of the 168 hearings but in only 88 did they direct the presentation. Since both legal and lay advocates always directed the parents' case, this means that the parents were actually represented by an active, lawyer-like advocate slightly more often than were the schools. This is especially significant because parents also managed to use cross-examination to make a coherent challenge to the schools' position in precisely the same percentage of cases. Looking ahead to the results of our correlational study (p.198ff) we find that almost 60% of the variation in the quality of parents questioning can be explained by their being represented by an attorney. Evidently, having counsel was quite useful (although, as we shall see, not decisive) to a significant number of parents. The same cannot be said for the schools. Having a lawyer who actively directed the case (as opposed to just being present) explained no variation in the quality of schools' presentation. Apparently, other factors were responsible for the schools' effectiveness. Perhaps the fact that regardless of their counsels' role, schools almost always had some employee (most often the director of special education) present their side of the case was more important to their success; even though such persons did not usually act in a lawyer-like fashion, on average, they did tend to be more organized than parents.

Supporting arguments with exhibits and witnesses. Tables 33 and 34 show that schools also did a somewhat better job than parents marshalling both exhibits and witnesses. Table 33 makes it clear that

Table 33

Comparison of Exhibits Entered into Evidence by Parents and Schools

N = 168

Type of Exhibit	Percentage of Cases in which Type of Exhibit was Entered by Parents	Percentage of Cases in which Type of Exhibit was Entered by Schools
Diagnostic (Including medical, psychological, speech, etc.)	49	89
Educational (including record of performance at school, achievement test results, etc.)	34	77
Home Related (including record of performance at home, examples of products, etc.)	12	10

even when it came to developing evidence from the home--an area in which they were indisputably expert--parents did little more than schools. They did much less when it came to marshalling evidence about childrens' psycho-educational functioning. Parents offered diagnostic exhibits in approximately half the hearings, while schools presented such evidence in almost 90% of the cases. Parents buttressed their arguments with exhibits relating to childrens' educational progress in approximately one-third of the hearings, while schools did so 77% of the time. This suggests that measured by use of exhibits, schools tended to be much better prepared for hearings than parents. Nevertheless, even though the majority of

Table 34

Comparison of Witnesses Employed by Parents and Schools

N = 168

Type of Witness	Percentage of Cases in which Type of Witness was Employed by Parents	Percentage of Cases in which Type of Witness was Employed by Schools
Medical Doctor	11	2
Psychologist	23	88
Educator	26	87
Other Professional	40	14
Non-professional	89	4

parents was not well prepared, a substantial minority was. This, in turn, suggests that the process was not impossible for parents to control.

A similar, albeit slightly more complex, picture emerges from Table 34. While schools called on psychological and educational witnesses to support their arguments about three times as often as parents, parents employed other professionals such as optometrists, social workers, PARC representatives, and so forth almost four times as often as schools and non-professional more than 20 times as often. While these findings too suggest that an important minority of parents and the vast majority of schools were well prepared for the hearings, it also suggests that a majority of the parents misunderstood the essentially educational nature of the disputes. In other words, most parents failed to understand the criteria schools use to make educational decisions. Instead of calling on school psychologists and educators, they apparently chose authoritative people with whom they were more accustomed. Most often, however, they relied on the testimony of non-professionals, including themselves, their friends, relatives, neighbors, and even their hairdressers. Under these circumstances, they were not able to make effective presentations as often as schools.

The overall quality of presentations. Table 35 compares the general quality of parent and school presentations, as rated by independent judges. In only 18% of the cases did schools either make no presentation or one judged poor because they presented no evidence or failed to argue coherently. More than twice as many hearings (39%) were weakly argued, or not argued at all, by parents. Conversely, schools made adequate, objectively supported presentations almost twice as often as parents. Interestingly enough, however, parents made the same number of the very best presentations: those which were responsive to the issues at hand, objectively premised, and well organized (17% of the hearings for each set of adversaries). Thus, although both schools and parents exhibited a wide range of approaches to the due process hearings, these findings demonstrate both that a significant number of parents were able to develop well organized, effective presentations, and that schools, while better on average, were not automatically superior. The same relative quality is apparent when key elements of effective presentation are disaggragated.

Table 35

Comparison of the Quality of Parent and School Presentations During the First Four Years of Hearings Under PARC

N = 168

	Percentage of Cases in Which Parents Made:	Percentage of Cases in Which Schools Made:
1. No presentation[a]	12	2
2. Poor presentation	27	16
3. Adequate presentation but not objectively supported	20	24
4. Adequate, objectively based presentation but not well-organized	24	42
5. Adequate, objectively based, well-organized, well-argued presentation	17	17

[a] A full description of the critéria used to judge each level of presentation may be found in Appendix V, p. 13ff.

The quality of presentations over time. As might be anticipated, the schools' presentations became somewhat better over time. Table 36 shows that 77% of their efforts were judged above average, or superior in the fourth year, as compared with 54%, 61%, and 50% during the first three years. The quality of parent presentations declined during the same period. Twenty-three percent were judged above average or superior during the fourth year, as compared to 44%, 25%, and 38% during the first three years.

Table 36

Percentage of Parent and School Presentations Judged Adequate, Objectively Based, and Well Organized (Above Average and Superior) Over the First Four Years of PARC

Year	Percentage of Presentations by Parents Judged Above Average or Superior	Percentage of Presentations by Schools Judged Above Average or Superior
1972 N = 41	44	54
1973 N = 61	25	61
1974 N = 40	38	50
1975 (until June 1) N = 26	23	77

It could be argued that parents simply had "easier" cases initially--easier in that the new law made it plain that there should be no disputes over exclusion and transportation. And, of course, there were such disputes (see Table 37) and they did happen early in the history of the Consent Agreement. As it turns out, however, they were not always easy parent wins: hearing officers often did find in favor of the schools when listening to them (although such decisions were just as usually reversed on appeal). So it seems more likely that schools' presentations improved as they grew more familiar with the due process procedures and the expectations of the hearing officers. Parents, of course, could only benefit from this kind of knowledge if they happened to hire a lawyer experienced with due process hearings, or were lucky enough to be in touch with knowledgeable consumer advocates. A complimentary explanation involves the changing nature of parents requesting hearings: from an initial group, whose efforts to cope with seriously retarded children had given them long experience battling with the education bureaucracy, to a later group who had little previous experience with schools and were simply trying to normalize their childrens' education, or avoid stigmatization altogether.

While we have no direct evidence for this, data in Table 37 do tend to support it. It shows that the number of parents making a central issue of classification dropped slightly during the second and third years of the Consent Degree and then returned to original levels in 1975. The number of parents raising questions about the content and quality of their childrens' program fell off slightly in 1974 and dramatically over the first half of 1975. Since parents of more seriously handicapped children were primarily concerned with the education and services they were to receive, and rarely fought the school over classification, it follows that parents in the third and fourth year were less experienced and may have argued their cases less effectively. Further support for this comes from our correlational study (presented in much fuller detail in subsequent sections of this chapter, p. 188ff). In it we found significant moderate relationships between the degree of children's disability (as measured by present placement) and the number of witnesses the parents called (r = .33), the effectiveness of their questioning of school officials (r = .34) and the overall quality of their

Table 37

Central Issues in Hearings as Perceived by Parents and Schools Over Time

Type of Issue	1972	1973	1974	1975 (until June 1)
	Percentage of Hearings in which Parents Raised the Issue of:			
Classification	76	61	60	61
Content-Quality	71	75	65	35
Transportation	24	10	6	4
Exclusion	17	3	3	0
	Percentage of Hearings in which Schools Raised the Issues of:			
Classification	78	64	63	85
Content-Quality	59	77	45	19
Transportation	12	5	3	0
Exclusion	17	3	0	0
	N = 41	61	40	26

presentations (r=.33). Similar significant relationships existed between children having previously been in special education and these measures of parental effectiveness.[8] In short, parents of more seriously retarded children with previous special education experience did their homework better, presented and argued their cases better, and, as we shall see below, succeeded more frequently.

How the Hearing Officers Behaved.

Quasi-judicial activists. Hearing officers did not confine themselves to the passive role that conventional wisdom, at least, imagines judges to play. As might be expected, they allowed cross-examination of participants (90%) and made enquiries necessary to clarify statements (94%) in the vast majority of cases. But in substantial numbers, they also took an active role in the questioning. In 70% of the hearings, they tried to find out if a need existed for the proposed change in children's classification or program. In almost half the cases (48%) they tackled the difficult task of ascertaining whether there was a fit between the school's evaluation of the child and the prescription offered by the psycho-educational specialist (usually a school psychologist). In a substantial majority of the hearings, the officers both sought to find out if the proposed program was adequate to meet the child's needs (70%) and made active mention of the concept of normalization as an operating principle (77%). In just under half the cases (45%) they even explained the appeals procedure. Finally, in 78% of the hearings they made enquiries on their own to flush out arguably relevant information. Such activism is probably especially useful where, as here, the process is not supposed to be rigidly trial-like in nature, and success therefore is not just a matter of adversarial skill. As a pragmatic matter, however, this interventionist role probably aided parents whose own questioning of school district witnesses, it will be recalled, was somewhat weak.

Impartiality. Insofar as the more subtle aspects of the hearing officers' performance could be captured in the coding, it appears to have contributed to the fairness of outcome. In 93% of the hearings, hearing officers routinely admitted comparable evidence, whether introduced by parents or by schools; they listened to witnesses from both sides without apparent prejudice in 94% of the cases; and they admitted both sides' evidence without questioning its reliability 95% of the time. In other words, coders could detect evidence of bias only in an insignificant number of cases. In fact, in the vast majority of hearings, officers maintained both their impartiality and their composure, sometimes under great emotional provocation. In only 10% of the cases did they even show overt anger or impatience with one side or the other.

Impact of the Hearings

If one perceives the hearing officers' decisions as more trustworthy than school district recommendations, because of the process that produced them, then our discovery of a relatively high reversal rate by hearing officers of school made decisions (pp. 166-68) suggests the substantive import of the hearings: some children received an education more "appropriate" than what the school district promised them. This quantitative impact should not be exaggerated: by generous estimate, the lives of 59 children were directly enriched during the first four years of PARC. Yet, of course, due process also has a subtler ripple effect, difficult to measure. We simply cannot say to what extent districts, eager to avoid future reversals, or wishing simply to avoid hearings altogether, have become more responsive to parental requests--or at least to what they believe hearing officers to require. Certainly, as we have shown in earlier chapters, school psychologists reported much change in this direction. Also, the relatively small number of hearings suggests some kind of informal, preemptive conflict resolution has been taking place. Indeed, our observational studies (Dworkin, 1976) confirm this trend. In fact, they indicate that some districts have actually routinized "pre-hearing hearings" in which disputes are negotiated before requiring a formal hearing. Among other tension-reducing outcomes, these have certainly resulted in the reduction of unnecessary disputes over such things as transportation and exclusion (see Table 37, p. 179). It is quite possible that the meetings between parents and school officials to develop Individual Educational Programs (IEPs) that were mandated by PL94-142 have assumed this function. To the extent this is so, the greatest contribution of due process in Pennsylvania (and perhaps throughout the country) may be to keep parents and schools talking constructively.

Internal evidence from the hearings supports the need for constructive parent-school communications. In less than 35% of the cases had school officials explained the psycho-educational evaluation to parents. In only 30% had they explained the procedures they used to arrive at the placement decision, and in just 32% had they described the proposed program's content. The transcripts reveal that parents have had almost as difficult a time making contact with school officials prior to the hearings. Even then, their major point of contact appeared to have been school psychologists: 55% of the parents reported speaking with a psychologist. After psychologists, acknowledged communication seems to have deteriorated rapidly. Only 28% of the parents reported speaking to a principal or middle level administrator, 26% to a teacher, and 23% to a director of special education. Less than 20% of the parents reported having contact with other school officials. While these data must be viewed cautiously since they are based only on what was said at the hearings (and parents might easily have talked to officials without mentioning it) a telephone follow-up with a random sample of 40 families who were involved in hearings (Note 28) revealed much the same pattern. In fact, both the data from the transcripts and our interviews strongly suggest that parents only got to hearings after having failed to establish satisfactory relationships with school personnel. It seems reasonable to suppose that a little more effort on the part of the schools to reach out to parents, coupled with better penetration of the school bureaucracy by parents themselves (perhaps aided by consumer groups) could go a long way toward reducing the need for formal hearings--an outcome consonant with the grander objectives of both PARC and PL94-192.

Predicting the Outcome of Hearings: Due Process as a Rational Method of Educational Decision Making

A second way to assess what happened in the hearings is to consider factors that correlate with parental success. While we lacked a full-blown model of the hearing as Justice Holmes' "legal analog of the scientific method," we believed that some variables would be logical correlates of such a rational process. If, for example, parental success in convincing hearing officers of their point of view were correlated with their having been represented by counsel, the number of exhibits and witnesses they employed, the effectiveness of their questioning of the schools position, and the overall quality of their presentation, our confidence in the process would be enhanced.

Of course, parents did not argue their cases in a vacuum; their own presentation was always judged by the hearing officer in relation to the quality of the school's presentation. In addition, it was defined, at least in part, by the particular characteristics of the child. For example, it is obvious that the type of presentation required in a dispute over the classification of a child with a borderline IQ would be quite different from the type demanded in a dispute over the educational needs of a trainable child previously excluded from public school. But the experience of the parents of such children would be quite different too, and might also play a significant role in the kind of case they mounted. Both the process and outcome of disputes also might be influenced by the context in which they arose. How would the resources and services available to districts as a result of their demographic characteristics affect the hearings? Finally the behavior of the hearing officers themselves would affect the process of the hearings; and of course, it determined the outcome. What mattered here was whether or not their behavior related to truth determining activity (such as making inquiries necessary to insure that both sides of the story came out)or to activity that undermined the process (such as favoring one party over another). We also wanted to find out how the hearing officers' organizational affiliation related to how they behaved in the hearings.

Interpretation of the implication of our findings for due process, as a rational method of educational decision making, depended on the pattern of correlations we discovered among these types of variables, as well as between them and the dependent variable; hearing officer decision or "outcome." We will discuss briefly each group in turn.

The Variables

Variables Describing Selected Characteristics of Children Involved in Due Process Hearings. We wanted to know whether the childrens' age and gender were associated with the hearing officer decision (outcome). Such variables should only come into play when they related to concrete issues raised in the dispute (e.g., the desirability of placing a TMR pubescent girl in a classroom of less retarded, aggressive boys). Other, more extraneous uses would suggest a biased process. We also wanted to know how childrens' experience in special education (including, when pertinent, their current placement and facility) affected the process and outcome of the hearings.

Variables Describing Parental Performance within the Hearings. Parents could choose to have hearings open or closed to the public. Did this choice signify a major orientation toward the hearings? If so, it should correlate with other, more dynamic aspects of the parents' approach. More important, did such aspects intercorrelate, and relate to outcome? In particular, we wanted to know if behaviors arguably relevant to making a rational case: their representation by counsel, the number of exhibits and witnesses they employed, the quality of their questioning, the overall quality of their presentation, as well as the degree to which their demands taxed schools' resources; correlated with each other and whether individually they could predict the outcome of the case. Further, did parents who argued effectively share other qualities in common? Had they had more prior involvement with the schools? Did they tend to have children who were more retarded and who had had previous experience in special education? In short, could we discern antecendent variables that related to both effective behavior within the hearings and to their outcome?

Variables Describing School District Characteristics and Performance in the Hearings. Here we asked the same kinds of questions we asked of the parents' hearing behavior. Once again we wanted to know if a pattern existed among various activities arguably relevant to rational decision making within the context of due process hearings, and if these activities correlated with outcome. Among other things, due process represented a mechanism designed to give parents some say in educational decisions that, in the face of scarce resources, all too often had been made expediently by schools. Prior to PARC, handicapped children were either excluded or offered what was available in the district rather than what was appropriate given their exceptionalities. If the hearings were working perfectly, we should find little association between demographic variables and outcome. In particular, there should be no correlation between the size of a district (its urbanicity) and hearing officer decision. Neither should there be a correlation between SES measures and outcome. To the extent that any of these correlations appeared, it could suggest that criteria beyond what was demonstrably "good for the child" were coming into play.

Variables Describing the Affiliation and Behavior of Hearing Officers. As with the demographic characteristics of school districts, hearing officers' affiliation should not have influenced hearing outcome. We were not so sure how outcome would be affected by key aspects of their behavior. Would their level of activism correlate with outcome? How would it relate to hearing officers' efforts to adhere to the PARC requirements? Would partiality shown to one side or another during the hearing influence hearing officer decisions afterwards?

Summary of Variables Used to Predict the Outcome of Due Process Hearings. Table 38 contains all the variables we used in our effort to predict outcome. Besides giving their identification symbol and name, it describes how they were scored and their possible range of scores. Because of the complexity of some of the variables, it was not possible to put their content into the table. (Readers interested in this kind of detail, will find full descriptions in Appendix V). In the remainder of this chapter we will discuss key intercorrelations among the predictor variables, as well as the zero-order correlations between these and our outcome measure. Finally we will use stepwise multiple regression (forward selection procedure, Nie, Hull, Jenkins, Steinbrunner & Bent, 1975) to examine how the variables combine to predict hearing officer decision.

Relationships Among Selected Predictor Variables and Hearing Officer Decision

Child Variables and Parent Performance. Table 39 presents the matrix of relationships that exist among child-related variables, selected variables describing parental performance in due process hearings, and hearing officer decision. The strongest correlation among child characteristics involves whether or not they had been in special education, their present placement and the placement their parents and the school wanted. Whether or not children had had experience in special education correlated significantly and positively with their severity of handicap (r = .62)--as evinced by the level of their present placement--and the placements their parents

Table 38

Description of Variables Used in Multiple Regression Analysis to Predict Hearing Officer Decision (Outcome) in Due Process Hearings

Variable ID	Variable Name	Content	Range
I. Variables Describing Selected Child Characteristics			
03	Year of Hearing	2 = 1972 3 = 1973 4 = 1974 5 = 1975	2-5
05	Age	Chronological Age Rounded to the Nearest Year	0-20
06	Sex	1 = Male 2 = Female	1-2
07	Child Previously in Special Education	0 = no 1 = yes	0=1
Genl 8	Child's Present Placement	0 = not yet school age 1 = normal classroom 2 = transition class or resource room 3 = classroom for LD, SED, BI, EMR or Physically Handicapped 4 = Combined EMR-TMR class 5 = TMR classroom 6 = Low trainable classroom 7 = SMR-PMR class 8 = Temporary homebound instruction 9 = Exclusion	1-9

Table 38--Continued

Variable ID[a]	Variable Name	Content	Range
	II. Variables Describing Parent Performance		
Fac 8	Child's Present Facility	0 = none 1 = classroom in regular public school 2 = public school classroom, building unspecified 3 = classroom run by IU in regular public school 4 = classroom in special public district education building 5 = Classroom run by IU in IU building 6 = private facility 7 = state institution	1-7
507	Parent Involvement with School Prior to Hearing	Sum of scores for items V48 to V63 after weighting for difficulty of making type of contact 0 = No on V48-V63 1 = Yes on V48, V49, V54, V57, V58, V60-3 2 = Yes on V51, V52, V55, V59 3 = Yes on V50, V53, V56	0-19
508	Parent Involvement Preparing for Independent Hearing of School	Sum of scores for items V64-V81 After Weighting as follows: 0 = no contact 1 = Non-professional contact 4 = Professional contact 9 = Professional contact written evaluation obtained	0-87

Table 38--Continued

Variable ID[a]	Variable Name	Content	Range
01	Hearing Open or Closed	0 = closed 1 = open	0-1
38	Lawyer Directs Case for Parents	0 = No 1 = Yes	0-1
505	Number of Exhibits Parents Enter	Sum V40-42 0 = none	0-18
506	Number of Witnesses Parents Employ	Sum V43-5, V47 0 = none	0-9
Genl 9	Placements Parents Want	Same as Genl 8	0-9
Fac 9	Facility Parents Want	Same as Fac 8	0-7
509	Degree Parent Demands Tax School Resources	Sum V89-91 For V89 Program location 0 = not relevant 1 = Program exists in district 2 = Program exists in IU or state facility 3 = Program exists in private facility 4 = Program must be created For V90 Transportation 0 = Not relevant 1 = Readily available 2 = available but inconvenient 3 = not available, transportation must be purchased	0-10

Table 38--Continued

Variable ID[a]	Variable Name	Content	Range
		For V91 Support Services 0 = Not needed 1 = Readily available 2 = partially or infrequently available 3 = not available, must be created	
88	Effectiveness of Parents' Questioning	1 = No questioning 2 = Questioning, but not challengingly 3 = Questions, challenges, but not within coherent framework 4 = Questions, challenges within narrow framework 5 = Questions, challenges, within broad framework	1-5
87	Overall Quality of Parents' Presentation	1 = No presentation 2 = Presentation Subjectively based 3 = Presentation objectively based but not adequately supported 4 = Presentation objectively based, supported but not well organized 5 = Presentation, objectively based, supported, well organized and argued	1-5
III. Selected Variables Describing School Districts			
04	District Urbanicity	1 = Urban School District 2 = Suburban School District 3 = Rural School District	1=3

Table 38--Continued

Variable ID[a]	Variable Name	Content	Range
IUPOP	Intermediate unit population	Mean population of counties making up each I.U.	27,967- 1,948,608 (people)
IUMIC	Intermediate unit income level	Weighted average of median incomes of counties making up I.U.	7,596- 12,747 (dollars)
IUED	Intermediate unit educational level	Weighted average of median educational achievement in years, of people over 25 in counties making up I.U.	10.90= 12.20 (years)
IV. Selected Variables Describing School District Performance			
504	School's Involvement with parent prior to the hearing	Sum V29-31 0 = no 1 = yes	0-3
14	Lawyer Directs Case for School	0 = no 1 = yes	0-1
501	Number of Exhibits Entered by School	Sum V15-17 0 = none	0-39
502	Number of Witnesses Employed by School	Sum V18-22 0 = none	0-10
Genl 10	Placement School Wants	Same as Genl 8	0-9
Fac 10	Facility School Wants	Same as Fac 8	0-7
503	Degree to which School Addresses PARC requirements	Sum V23-28 0 = no 1 = yes	0-6

Table 38--Continued

Variable ID	Variable Name	Content	Range
36	Overall Quality of School's Presentation	Same as V87	1-5
V. Selected Variables Describing Hearing Officer Affiliation and Behavior			
92	Hearing Officer Affiliation	1 = Employed by School District 2 = Emplcyed by I.U. 3 = Employed by College or University	1-3
93	Hearing Officer does Most of the Questioning	0 = no 1 = yes	0-1
510	Degree to which Hearing Officer Adheres to PARC Requirements	Sum V94, V96-V99 0 = no 1 = yes	0-5
511	Hearing Officer Partiality	Sum of V103, V104 on the following Scale: 1 = Totally Biased Toward School 2 = Leaning Toward School 3 = Impartial 4 = Leaning Toward Parent 5 = Totally biased Toward Parent	2-10
217	Hearing Officer Decision (Outcome)	1 = Complete loss for Parent 2 = Partial Loss 3 = Compromise 4 = Partial Win for Parents	1-5

(r = .52) and the school (r = .41) were requesting. There was also a strong positive correlation between the placement a child held at the time of the hearing and what the school wanted (r = .74). This might suggest that, for the most part at least, schools argued for the status quo. But the correlation between the placement parents wanted and the placement desired by the school was equally high (r = .72). While this supports the notion that except in disputes over the classification of children with borderline IQs, placement disputes tended to focus on subtle questions, involving the content and quality of the programs within mutually agreed upon classifications, as well as on grosser questions concerning the facilities in which they were to take place, it must be read cautiously.

For example, even a perfect correlation between parent and school requests might have indicated only systematic disagreement between them as to appropriate placements for children of different ability. While our findings undoubtly reflect this to some extent, both our close reading of the transcripts and other correlational data suggest that such differences did indeed most often occur in relation to children on the borderline between regular and special education. Thus, there were much higher correlations among the present placement and the placement desired by parents and school districts, than there were between the child's current facility and the facility desired by parents (r = .48) and requested by schools (r = .28). There was no significant correlation between the facilities requested by parents and schools. Since disputes over facilities involved the question of program location (e.g., should the child's class be in a public school, an IU building or a state institution), they usually pitted parents concerns over stigmatization and the value of the least restrictive environment on the one hand, against schools' concerns over costs and efficiency, on the other.

Weak to moderate, significant correlations existed between previous experience in special education, current placement and measures of the effectiveness of the parents' presentation. Degree of retardation (as implied by level of present placement) correlated .23 with parents being represented by counsel, .32 with the number of witnesses they employed, .33 with the overall quality of their presentation, and .44 with the degree to which their demands taxed schools' resources. This suggests that, although parents of more seriously handicapped children often agreed with schools on the issue of classification, they also tended to ask for more expensive programs and services, and to make more effective presentations than parents of less handicapped children. They tended to "win" their cases more often as well. Thus, while childrens' age and gender did not relate to outcome, whether they had previously experienced special education ($r = .34$) and the level of their present placement ($r = .32$) did.

Interestingly, the decision to open or close a hearing to the public was not related to childrens' age, sex, previous experience in special education or present placement. Evidently, parental concern over public exposure was not tied to their childrens' more overt characteristics: even to their degree of retardation. Since it

TABLE 39

CORRELATION MATRIX

THE RELATIONSHIPS AMONG CHILD-RELATED VARIABLES, SELECTED MEASURES OF PARENT BEHAVIOR AND HEARING OFFICER DECISION (OUTCOME)

N = 168

	01	05	06	07	Genl 8	Fac 8	Genl 9	Fac 9	Genl 10	Fac 10	38	506	509	87	217
01 Hearing Open or Closed	1	-.04	.02	.06	.03	.10	.08	.09	.08	-.05	-.09	.01	.06	.02	.10
05 Child's Age		1	-.12	.21[a]	.31	-.08	.13	-.02	.13	.06	.11	-.07	.03	.01	.09
06 Child's Sex			1	-.09	-.08	-.04	-.02	.02	-.08	-.09	.04	-.02	-.18	-.03	-.02
07 Child Previously in Special Education				1	.02	.28	.52	.36	.41	.00	.23	.34	.37	.42	.34
Genl 8 Child's Current Placement					1	-.02	.72	.38	.74	.02	.24	.32	.44	.33	.32
Fac 8 Present Facility						1	.28	.48	.08	.28	.11	.37	.29	.37	.19
Genl 9 Placement Parents Want							1	.38	.72	.16	.23	.34	.45	.40	.30
Fac 9 Facility Parents Want								1	.24	.11	.22	.37	.45	.40	.20
Genl 10 Placement School Wants									1	-.14	.17	.33	.50	.30	.31
Fac 10 Facility School Wants										1	-.01	.04	-.02	.05	-.06
38 Lawyer Directs Parents' Case											1	.45	.21	.65	.14
506 # of Witnesses for Parent												1	.37	.68	.42
509 Degree Parent Demands Tax School													1	.40	.32
87 Quality of Parents' Presentation														1	.39
217 Hearing Officer Decision (Outcome)															1

[a] Within this table $p < .05$ for any correlation of .15 or more.

was not related to any of our other variables either, we are not sure what motivates parents to chose an open or closed format.

Parent Performance and Outcome. Table 40 presents the correlations that exist among various elements of parental behavior and hearing officers' decision. Aside from their decision to open or close the hearing to the public, it reveals a consistent set of moderate to strong, significant relationships. The presence of a lawyer for the parents correlated .46 with the number of exhibits offered by the parents, .45 with the number of witnesses they called, .75 with the quality of their questioning and .66 with the overall quality of their presentation. But there were equally strong interrelationships among these variables. The number of exhibits parents entered at hearings correlated .52 with the number of witnesses they brought, .55 with their prior preparation (outside contacts with the school) .45 with the quality of their questioning and .59 with the overall quality of their presentation. The number of witnesses parents produced correlated .70 with prior preparation, .55 with the quality of their questioning and .68 with the overall quality of their presentation. The quality of their questioning correlated .73 with the overall effectiveness of their presentation.

The dimensions of presentation were less strongly, though still significantly related to the degree to which parents demands taxed schools' resources. Such demands correlated .71 with representation by counsel; .18 with number of exhibits, .37 with the number of witnesses, .31 with the quality of questioning; and .40 with the overall

Table 40

Correlation Matrix[a]

The Relationships Among Selected Variables Describing Parent Behavior, Child's Current Placement and Hearing Officer Decision (Outcome)

N = 168

		01	37	505	506	507	508	509	87	88	Genl 8	Genl 9	Fac 9	217
01	Hearing Open or Closed	1	-.09	-.09	-.01	.07	-.01	.06	.02	.02	.32[a]	.08	.09	.10
38	Lawyer Directs Parents' Case		1	.45	.45	.06	.57	.21	.65	.76	.24	.23	.22	.14
505	No. of Exhibits for Parents			1	.52	.01	.55	.18	.59	.45	.07	.19	.36	.24
506	No. of Witnesses for Parents				1	.11	.70	.37	.68	.55	.32	.34	.38	.42
507	Parents' Involvement with School Prior to Hearing					1	-.02	.19	.26	.15	.12	.12	.13	.13
508	Involvement Preparing for Hearing Independent of School						1	.38	.71	.58	.33	.33	.35	.30
509	Degree Parent Demands Tax Schools							1	.40	.31	.44	.45	.45	.32
87	Quality of Presentation								1	.73	.33	.40	.39	.39
88	Effectiveness of Parents' Questioning									1	.34	.33	.27	.30
Genl 8	Child's Current Placement										1	.72	.38	.32
Genl 9	Placement Parents' Want											1	.36	.30
Fac 9	Facility Parents Want												1	.20
217	Hearing Officer Decision (Outcome)													1

[a] Within this table $p < .05$ for any correlation of .15 or more.

quality of the presentation. It seems likely that making a large number of demands was often part of parents' overall strategy within the hearings. All the dimensions of performance that we measured were moderately and significantly related to the child's current placement and facility. Of course, the degree to which parental demands taxed schools' resources was logically related to the seriousness of the child's handicap. Yet beyond that obvious relationship, the correlation of performance variables with severity of handicap (Table 39, p 197) together with the other relatively strong correlations among performance variables, including making demands that tax schools' resources, suggest that parents of more seriously retarded children tended to be somewhat more effective in the hearings than parents of less retarded children.

In general, our findings strongly suggests that parents who performed well in one aspect of the hearings tended to perform well in other aspects, while those who were weak in one tended to be weak in others. What is more, behaviors that should logically "hang together" given the rational, truth-determining conception of due process, did in fact hang together in the first four years of PARC hearings. Since these behaviors, with the exception of representation by counsel, also related more strongly to hearing officer decision than any others we examined (see also Tables, 39, 41, and 42) it seems reasonable to conclude that the hearings did provide a vehicle for parents to have a rational input into the educational decision making about their children. The fact that being represented by a lawyer did not correlate with outcome, but did relate to the other elements of effective presentation, does not detract from this conclusion. Instead, it suggests that while lawyers could help with the process, they were not essential to it: an outcome that surely would gratify consumer advocates who saw in PARC (and later, in PL94-142) a means of giving parents their own, direct and untranslated voice in education (Gilhool, 1973).

Interestingly enough, there were no significant correlations between the dimensions of parent behavior within the hearings and their involvement with the schools prior to it. While our measure of involvement is the least reliable of our variables, because we could only rate the involvement the parties mentioned, this is still a suggestive finding. Apparently, parents did not have to do extensive exploration in the schools in order to act effectively within the hearings. Of course, as we have already pointed out (p.187) such contact is probably in the interests of both parties and might go a long way toward eliminating the need for hearings altogether.

School Performance and Outcome. Table 41 presents the matrix of relationships that exist among the urbanicity of the school, selected variables describing school performance in the hearings, and hearing officer decision. There were significant though weak positive correlations between the urbanicity of the school district and the number of exhibits (r = .25) and witnesses (r = .20) school districts employed. Urbanicity also correlated with the overall quality of the school presentation (r = .21). In fact, the only performance variable it did not relate to was having a lawyer who directed the case. With this one exception, smaller school districts tended to behave in ways that were arguable more effective in hearings than larger districts. Urbanicity was negatively related (r = -.28) to the placement the school wanted for the child, but positively and significantly, if weakly, correlated (r = .16) to the facility it requested. Larger school districts tended to ask for lower placements than small districts, and for placements in less restrictive environments. Perhaps this indicated that small districts tended to heed PARC's principles of normalization, but that once they classified a child as seriously handicapped, their choice of locations was narrower: they simply lacked the kinds of differential services larger districts commanded. Whatever the reason, the fact that smaller districts acted more effectively and adhered more often to PARC's principles of normalization may explain the moderate negative correlation between urbanicity and hearing officer decisions (r = -.27): parents tended to win more often in larger districts while losing more often in smaller ones. Oddly enough, urbanicity was not related to the schools' involvement with parents prior to the hearing, suggesting an equal amount of access to small and large systems. To the extent our measure of involvement was reliable, this may indicate that effectiveness, combined with the opportunities for compliance with normalization created by a lack of resources, accounted for the relative success of small systems in the hearings.

Unlike the situation with parents, the presence of a lawyer who ran the hearing for the school was not significantly related to other aspects of the school's performance. The number of exhibits entered by the school did correlate in a significant, though relatively weak fashion, with the number of school witnesses (r = .18). It was more strongly related to the overall quality of the school's presentation (r = .31). The number of school witnesses was also correlated with the overall quality of its presentation (r = .25). Thus, as with parents, but to a lesser degree, districts that performed well on one aspect of hearing behavior tended to perform well on others too, while those weak on a given aspect tended to be weak on the others as well. In contrast to parents, the number of exhibits and witnesses schools' employed was not significantly related to hearing officer decision. But the overall quality of the school's presentation did correlate with outcome (r = -.39). This meant that the better the school's performance, the less likely the parents were to win (and vice versa). The relatively low correlations among logically related aspects of performance, coupled with the relatively strong correlation between quality of overall presentation and outcome, suggests that the ingredients of winning may have been different for parents and schools. This is born out by other relationships found in Table 41.

The placement the school requested was negatively related to its urbanicity (r = -.28) the number of exhibits it presented (r = -.31) and the overall quality of its presentation (r = -.30). It was also negatively correlated with the degree to which it met PARC requirements (r = -.33). This meant that smaller districts asked for more normal placements than larger districts. It also indicated that districts which asked for lower level placements used more exhibits and witnesses, followed PARC requirements more closely and did a better job presenting than those which requested higher level placements. Schools' placement request was positively related to outcome (r = .31) but given the way this measure was scored, this meant that parents won more often when schools requested lower level placements, dispite their better performance, and lost more often when they requested higher level placements.

The degree to which the school met the requirements of the PARC Agreement--including having conducted its own broad evaluation, that included a flexible prescription, and detailed an individualized program--was correlated with its urbanicity (r = .27). Smaller districts met the letter of the law more frequently than larger districts. It was also correlated with the number of exhibits the school presented. Districts that followed PARC requirements also used more exhibits but they did not call more witnesses than schools which stuck less closely to the letter of the law. Neither were they more likely to be represented by a lawyer who directed their case. Yet following PARC mandates was moderately related to schools' involvement with parents prior to the hearing (a logical relationship in that such contact was required by the reform) and strongly related to the overall quality of schools' presentations (r = .54). It was also moderately correlated with outcome (r = -.25): parents tended to lose cases in districts that followed PARC and win them in districts that were less observant of its requirements.

Taken together with the finding that the logical elements of effective performance for schools do not hang together as well as they do for parents, these findings support the idea that what it took to "win" was different for the two groups. Perhaps the schools' presentations reflected the fact that because of their "duty to go forward," hearing officers were holding them closely to the letter of the reform. This may have made them less interested in developing the other, more conventional elements of performance. That the correlations between outcome and both meeting PARC requirements and the overall quality of schools' presentation were among the highest of those involving school related variables, supports this view. Apparently, schools did not have to rebut parents' arguments through cross-examination, or develop overwhelming arguments of their own through the accumulation of exhibits and witnesses. What they had to do, it would seem, was to convince the hearing officer that they were operating in good faith within the framework of the PARC Agreement: it was enough to demonstrate that they had followed the necessary evaluation and prescription procedures, and that in classification and programing they had attempted to provide the most normal setting possible. Other data support this hypothesis too. In contrast to larger school districts, smaller ones tended to argue for more normal placements, as well as to conform more closely with other PARC requirements. Since they also won more frequently, it indeed appears as if hearing officers were most concerned about compliance when evaluating a school's case.

Hearing officers' concerns for parents were two-fold. First, they appear to have paid close attention to what parents were demanding, and how pursuasively they argued for it. Second, they assessed how effectively the parents argued against what the school proposed. This seems quite in keeping both with the technical burdens established by the Consent Agreement and subsequent appeals decisions (Notes, 14, 15, 16) and with the spirit of the reform which at once seemed to encourage parents to attack the school's position while simultaneously disapproving of such an adversary stance for the school.

Hearing Officer Affiliation and Behavior, Selected Parent and School Behavior, and Outcome. Table 42 presents the matrix of relationships that occurred among variables that described hearing officers' organizational affiliation and behavior, selected parent and school behaviors and their decision concerning the hearings. Whether hearing officers were employed on an everyday basis by school districts, intermediate units or colleges and universities, was not correlated with their activism (doing most of the questioning in the hearings), with following PARC requirements, or with acting in a partial manner (in making sure either partys' story was brought out clearly). These behaviors, in turn, were significantly related to each other. Hearingofficer activism correlated .27 with following PARC requirements, and .23 with partiality. Following the requirements was even more strongly correlated with partiality (r = .46). Given the construction of the partiality scale (Table 38, p.189) this meant hearing officers felt the need to counterbalance the absence of attorneys in this last kind of case, while in the case of more seriously retarded children, they tried to operate in the more flexible, and less formal manner they believed necessary in order to come to grips with such childrens' problems and needs.

Multiple Correlation: Predicting Hearing Officer Decision

Discussion of the interrelationships among the predictor variables, as well as the zero-order correlations with hearing officer decision, raises the question of how all the independent variables might combine to account for outcome. Table 4 presents a summary of the results of a regression analysis designed to answer it. Only variables that made a significant ($p \leq .05$) contribution to the multiple R are included.

The variable that was most strongly correlated with hearing officer decision as the number of witnesses employed by the parents. Alone, it accounted for 18% of the variation. After it was entered, two more variables reliably explained an additional 15% of the variation in outcome. The first of these, overall quality of the schools' presentation, accounted for 13%. Once it was entered, the second, child previously in special education, added another 2%. Together, the three variables explained a rather substantial 34% of the variation in hearing officer decision.

These results support due process as a rational method of educational decision making. The number of witnesses parents used was

Table 43

Multiple Regression Summary: Predicting Hearing Officer Decision (215)

N = 168

Step	Variable I.D.	Simple r	Multiple R	Multiple R^2	R^2 Change
1	506	.42	.42	.18	.18
2	36	-.39	.55	.31	.13
3	7	.34	.57	.33	.02

one of the elements of parental behavior that should have gone into an effective performance if the hearings were functioning in the truth-determining fashion of more formal trials. Indeed, since determining the number of witnesses simply involved counting those appearing in the transcripts, it may have been our most reliable proxy for the quality of parent performance--more reliable certainly than the scale we used to measure quality directly, as it required coders to make very difficult judgments. Recall that the number of witnesses correlated very strongly with parental preparation prior to the hearing, the number of exhibits parents entered, the quality of their questioning, the presence of an active lawyer, and the overall quality of their presentation (see Table 40, p. 199).

The fact that the overall quality of the school's presentation explained the most additional variation in outcome, once the number of parent witnesses was entered into the equation, increases our faith in the rationality of the hearing process. It meant that parents success was not only related to their own relative effectiveness, but also to the school's relative ineffectiveness: good performance by parents combined with poor school performance to predict a decision favorable to parents. Of course, we have already discussed how the quality of the school's presentation, in contrast to that of parents, was much less strongly correlated with the other elements arguably related to effective performance. Quality of the school's presentation was more highly correlated with the degree to which the school met PARC requirements. It was equally related to the child's having been in special education, and the placement the school was requesting. In other words, it appears that the school's success depended less on their competent use of conventially relevant adversarial tools, than on their ability to convince the hearing officers that the recommendations they made (at least for seriously handicapped children) had taken PARC requirements into account.

The third variable in the multiple regression accords with this view as well. Parents of children who had had previous experience in speical education may have won more often because hearing officers held schools to a higher standard in such cases, than in cases involving children who were being considered for special education for the first time. But it also may have been that parents of children who had already been in special education had developed considerable knowledge about their childrens' handicaps, as well as considerable expertise in coping with the schools. Our data bear this out. Recall that previous assignment to special education correlated moderately with the number of parent exhibits and witnesses, the quality of parents' questioning, and overall quality of their presentation.

On balance then the results of the regression analysis are suggestive of a rational inquiry process: each of the factors that correlated importantly with outcome, and had additive predictive power, makes sense. But taken together they hint at a semi-adversarial process. On the one hand, the strength of opposing presentations was relevant to success. On the other hand, the nature of the case that had to be made in order to succeed may have been slightly different for each party. Apparently, parents were rewarded for fully adversarial behavior, but such behavior on the part of schools was less important than was their fidelity to PARC. Indeed, hearing officers appeared to intervene regularly when parents were not able to effectively challenge the school's case. The same behavior on behalf of the schools was not forthcoming. Both types of hearing officer behavior is suggestive of a fact-finding model which placed less emphasis on the party's skills, than does the traditional trial. Perhaps the hearing actually did come to represent that mixed professional-legal model initially hoped for by those who drafted the Consent Agreement.

Footnotes for Chapter V

1. Dennis Haggerty, a Philadelphia attorney, and Herbert Goldstein, a professor of Special Education at Yeshiva University, were appointed by the Court to oversee implementation of the Consent Decree.

2. F. John Hagele, a Philadelphia attorney. The Pennsylvania Association for Retarded Children was originally represented in the case by Thomas Gilhool.

3. Lawrence Selkowitz occupied this position at the time, and together with Messers Haggerty, Goldstein, and Hagele, was instrumental in making it possible for us to conduct this research.

4. This meant that one party's "win" could not be automatically equated with the other's loss. In fact, though correlations were very high between parent and school outcomes on classification issues ($r = -.87$), content-quality issues ($r = -.87$), and overall outcome ($r = -.83$), that they were not perfect suggests that hearing officers were indeed capable of making independent recommendations. When this happened, both parties would be described as "losing."

5. Complete reports on the arguments used by parents and schools may be found in Appendices VI and VII. Because we have used only a fraction of the data they contain, we have not included the tables in the body of the text. Whenever we draw from them, however, we will refer the reader to the appropriate Appendix.

6. See footnote 4 above.

7. Thirty-three cases involved both classification and content-quality issues.

8. Childrens' previous experience in special education correlated moderately and significantly with the number of witnesses they called ($r = .33$), the effectiveness of their questioning of school officials ($r = .33$), and the quality of their overall presentation ($r = .42$).

9. Here we included IU population, median income and median educational level as well as urbanicity. Unfortunately, these former variables were inadvertently dropped from the intercorrelation matrix. Our discussion of them therefore must be limited to their zero-order correlations with outcome.

CHAPTER VI

DUE PROCESS FOR CLASS JUSTICE: THE ADMINISTRATIVE APPEALS PROCEDURE

Introduction: Professionalism and Legalism

PARC entitled all retarded children to a publicly-financed education "appropriate to their needs." Yet the consent agreement does not define the concept of appropriateness with precision. Nor could it: insofar as "appropriateness" has case-specific or even category-specific meanings, its variations cannot be confronted in any single decision concerned with the entire class of retardates. And insofar as "appropriateness" asks for a confident judgment concerning educational diagnosis and prescription (is this the right educational regime for this child?), the absence of professional consensus renders the concept unsuitable for legal rule. PARC does offer a framework for the resolution of disputes over "appropriateness," preferring (other things being equal) student placement in a setting as similar as possible to the regular classroom. Yet this "presumption of normality" is, at best, only a guide to further inquiry and not a clear decision-rule.

In short, the right to education decreed in PARC is not self-enforcing. The court did not confine its efforts to a declaration of rights, leaving the crucial enterprise of implementation in the hands of school officials; to have done so would have risked evisceration of the entitlement. Nor did the court initially carve out a continuing judicial monitoring role, managing the implementation process itself.[1] Instead, PARC converts substantive issues concerning the "right" to appropriate education into matters of procedure. This is not an especially novel undertaking. Over the past decade, courts have imposed due process norms on decisions which had been viewed as exclusively a matter of professional or political judgment: student discipline, access to welfare, the right to drive, and claimed entitlements to housing have been treated in this manner. In each of these instances, the court attempts to render administrative determinations subject to the rule of law, by imposing a mode of decision making whose requirements are drawn from the constitutional dictates of due process.[2]

The procedural regime that PARC establishes includes an administrative hearing governed by basic due process norms (an impartial hearing officer, decisions based exclusively on evidence introduced into the record, and so on) designed to promote reliability in particular judgments; the implementation of this aspect of the decision has been described in the previous chapter. PARC also permits any party unsatisfied with the hearing outcome to lodge an administrative appeal. This aspect of the decision is intended to serve two distinct purposes: to impose some procedural regularity in the conduct of hearings and to promote uniformity of outcome in factually similar cases through adherence to precedent.

What makes PARC's reliance on procedural protection noteworthy is the vagueness of the underlying substantive standard. In a great many instances where a procedural entitlement is claimed, the task to be performed at the hearing, matching fact situation to legal rule, is simple enough: "Did X attack her teacher with a knife?"; "Is Y entitled to additional welfare funds to permit him to support his indigent second cousin?". Determining whether a particular educational regime is "appropriate" is, by contrast, a far more complex and problematic endeavor. Out of the administrative law system which PARC creates, it was hoped that greater specificity and clarity concerning the broad PARC substantive rights would emerge.

This legal regime does not, of course, operate in a vacuum. Rather, it is imbedded in an environment that is at once professionalized, bureaucratized, and politicized. The introduction of law into such a realm is unlikely to be carried off without some conflict, for one could anticipate that professional, bureaucratic, and political standards of decision making would on occasion collide with legal norms. Not that this situation is unique: a great many areas of the law--determinations of insanity in criminal cases, civil commitment of the mentally ill, juvenile delinquency cases, and child custody disputes among them--are fraught with similar tensions among divergent norms.[3] The hearing and appeals mechanisms by the court pay little overt attention to bureaucratic and political concerns. These emerge fully in other aspects of PARC implementation, such as budget setting and program development; their indirect impact on the due process system is noted in assessing the administrative appeal system.

Professional concerns significantly shape the procedural requirements mandated by PARC. In setting the decisional process in motion, various deliberate deviations from legal formalism--most significantly, the determination that only professional experts and not lawyers would act as hearing examiners--signalled that a marriage of two discrete traditions, professional and legal, was desired. The best of both traditions was to be preserved: professional competency concerns would keep the process from degenerating into legalisms, while law-rooted concerns for reliability would temper professional interest (and self-interest). It was, to be sure, equally possible that each tradition would attempt to subvert the other, the legal by recreating the trial ethos in hearings and appeals, the professional by insisting upon the habitual prerogatives of professional at the expense of constitutionally predicated concerns of the child.

How did the system that actually emerged shape the implementation of the PARC mandate? One useful way to appraise this legal regime is to inquire into its direct effects, focusing on the decisions themselves. Hearings opinions and especially administrative appeals decisions give substantive meaning to "appropriateness."[4] The breadth with which they did so signalled the scope of educational change--at least as conceived at the state level. The coherency with which these decisions did so said something about the wisdom of putting such questions to a court (or court-like institution) in the first place. The actual process of dispute solution would reveal how certain disputed questions were answered, and suggest how much confidence could fairly be placed in the rightness of those answers.

These are vital issues, for they call into question the utility of a mechanism, the due process hearing, used--in Pennsylvania and, subsequently, nationally--in an increasing variety of circumstances to resolve disputes within the educational sector. In 1975, by state law, Pennsylvania made due process hearings available for all categories of exceptional children, not just the retarded. As of June 1979, some 130 administrative appeals decisions had been issued in Pennsylvania. Subsequently, The Education for All Handicapped Children Act of 1975 (PL94-142) rendered due process protection a requirement of nationwide scope. Any district receiving aid under the act now has to make a hearing available to resolve disagreements between parents of exceptional children and school officials.[5]

A review of the appeals decisions in the administrative appeals concerning retarded children decided during the three and one half years between the initiation of the procedure in 1972 and the end of the 1974-75 school year permits a preliminary appraisal of the workings of this system.[6] What one finds is a certain narrowing of the substantive scope of PARC, particularly with respect to the presumption of normality, and some accommodation of the constitutional standard to the educational system's needs Even more significantly, the apparent inconsistency of analysis and outcome in the appellate opinions calls into question the possibility of defining "appropriateness" through lawlike mechanisms. With regard to matters of process, the aspiration of creating a new order drawing on the best of both legal and professional traditions has, at best, been imperfectly realized. The appeals process does not afford the effective system review that had been hoped for.

Examining what might be termed the internal integrity of the decision-making apparatus established by PARC says much, of a cautionary nature, about the early stages of the implementation of the PARC mandate. The PARC decision also has had indirect effects on the Pennsylvania educational system, transcending the particular outcomes of hearings and appeals decided pursuant to PARC. Where the PARC mandate does not control, it nonetheless influences. Viewing PARC in these terms, the outlook becomes more positive: the various types of findings reported in earlier chapters form a pattern which strongly suggests that exceptional children are generally more likely to receive an education consistent with the PARC standard than was the case prior to the decision. If PARC did not bring about this result in a clearly traceable way, its impact on this broader process of change nonetheless merits mention.

The Appeals System: Giving Substantive Meaning to Appropriateness

The "Normality" Presumption

PARC addressed the propriety of segregating retarded children from the normal population, fixing the standard which was to govern subsequent hearings: "Among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class [i.e., a class for "handicapped" children] and placement in a special public school class is preferable to placement in any other types of program of education and training." In its apparent concern for the stigma associated with segregation of the handicapped, this presumption has constitutional underpinnings; it also takes sides in an unresolved professional conflict, one with strong ideological overtones. For that reason, the presumption could be anticipated to arouse resistance among professionals who perceived it as usurping their prerogatives.

The appellate administrative opinions following PARC reject the presumption of normality. They do not do so directly--that would be clearly impermissible--but instead adopt the expedient of ignoring the presumption. In several opinions where the dispute between parent and school district concerns the level of handicap and the propriety of more or less segregated treatment, the Secretary of Education's decision does not take into account the standard of the court. In part, this consequence stems from the ambiguity of the PARC opinion. While the intent of PARC is to establish a hierarchy of preferred placements, from regular class instruction to at-home instruction, the language of the opinion fails fully to elucidate this intention.

In Bungo (Appeal 2, 1973)[7] the relevance of the presumption is clearly posed. A child who had fared badly in regular kindergarten and first grade was tested and found to have the IQ of a trainable retardate (TMR), two classification levels below normal (the intermediate classification is educable retardate (EMR)). Reassignment to a TMR program was approved by the hearing officer, in a decision affirmed by the Secretary of Education. There were good reasons to oppose reassignment. The parents introduced evidence that medication which the child was taking may have depressed her test performance; a substantial test score improvement on retesting was demonstrated; and evidence of a speech defect which may well have confounded the intelligence assessment was noted. Yet the opinion does not discuss the impact of the PARC normality presumption on the propriety of assigning Bungo to a class for trainable retardates, rather than a program for educable retardates or learning disabled. Indeed, the Secretary in dictum seemed implicitly to embrace the protectionist view of special education, an ideological position directly counter to the integrationist model embraced in PARC: "While we wish that Ramona would be able to participate successfully in the program for the educable mentally retarded, we cannot permit such a placement before she is ready to handle it--a premature placement would hurt her development. . . ." A more balanced reading of the record would suggest that Bungo, far from being clearly identifiable as a trainable retardate, had uncertain potential; in that context, the presumption should have, but did not, come into play.

The practical irrelevance of the presumption is even clearer in JM (Appeal 6, 1973). In that case, the parents had sought to continue their child's placement in the regular class, while the district proposed placement in the program for educable retardates. Explicitly in order to avoid the stigma of isolated special treatment (the very value underlying the normality presumption), the hearing officer called for supplemental instruction focused on the child's special needs while keeping the child in the normal class. The Secretary reversed this action, finding substantial evidence--namely, IQ test scores--that EMR placement was appropriate, and dismissing the stigma issue as an unwarranted concern of the parents. Even if the Secretary's reading of the IQ score evidence is right, PARC does not foreclose the question. Retarded children can be aided both in the regular classroom and in isolated classrooms. While it is in making this choice that the presumption of normality should count most, here it counts not at all.

Other decisions reinforce this pattern. In MG (Appeal 14, 1974), a dispute between parents and school district over placement, evidence that the private school MG was attending integrated normal and retarded children, thus satisfying the spirit of the PARC preference, was not even noted in the Secretary's decision, which approved the transfer of MG to the public school's kindergarten for retardates. In Kenneth (Appeal 29, 1975), the decision of a hearing officer favoring a learning disability placement for a child with borderline IQ scores and a bilingual background was reversed, the child assigned to an EMR class. Evidence that the learning disabilities class was more likely to lead to subsequent return to the regular program was ignored in the appellate decision. In Timothy (Appeal 31, 1976),[8] the hearing officer's recommendation that the child be assigned to an EMR class was rejected in favor of placement in a class for the learning disabled. While the latter placement might be thought more likely to result in the eventual reassignment of the student into a regular program--consistent with the PARC presumption--this fact is not noted in the opinion.

To be sure, there are exceptions. In Stephen and James (Appeal 18, 1974) and Jeffrey (Appeal 19, 1974), there is a sensitive treatment of the presumption of normality as it affects the permissibility of home instruction. Generally, however, the presumption of normality is either not addressed, or given no weight.

"Appropriateness": Diagnosis and Placement

Diagnosis. The concern for appropriateness includes two broad components: diagnosis and programmatic placement. In theory, a child receives an appropriate education only if that child's needs are correctly diagnosed and if the educational regime provided for the child follows from the diagnosis. But theory presumes a higher level of knowledge than actually exists. The capacity to perform accurate diagnoses--or even to identify a child's needs in a way that secures the consent of diverse professionals--is limited. So too is agreement concerning the ideal pedagogy and instructional environment. These are not just petty differences: the very criteria for relevance in judging accuracy of diagnosis and adequacy of prescription vary within and among professional disciplines. In the face of such dissensus, how could a standard of "appropriateness" be developed?

With respect to questions of diagnosis, the chief issue presented by the appealed cases concerns the proper identification of a child who shows evidence of both retardation and brain damage. In order to sweep as many cases as possible into its net, the PARC decree declared that its requirements reach all instances in which some retardation was apparent. Regrettably, the opinion added that retardation would be treated as the primary handicap. If this meant that multiply-handicapped children should be diagnosed as retarded, whatever the facts of the case, the diagnosis would make sense only in terms of the legal standard; it was professionally unacceptable.

In a series of cases beginning with C.H. (Appeal 5, 1973), the Secretary of Education made plain that an inquiry into the actual--not the presumed--handicapping condition of multiply-handicapped youngsters was required. The child suffering both from "learning disabilities" and apparent retardation would be so identified, even if this required rewriting statutory definitions of learning disability, which in presuming normal intellectual capacity were designed to avoid just this overlap.

The complex character of such identifications reflected the range of points of view rendered at a given hearing. But because the opinions never specify which elements of handicap are crucial to the identification and how those elements should be identified, there remains the possibility of divergent diagnoses of the handicap of a given child, each able to withstand review. In this instance, the legal standard did not lead to resolution of differences within and among the professions, and hence failed to secure consistency.

A comparison of two cases, each involving a dispute over the appropriate diagnosis (or classification) of a child as learning disabled or retarded, suggests the dimensions of the problem. In S.S. (Appeal 9, 1974), a child whose IQ scores fell in the retarded range was found by the hearing examiner to be a "multiply-handicapped, learning-disabled, brain-injured child with erratic development"; the school district's assertion that evidence of retardation was sufficient to justify classification as a retardate was rejected by the Secretary, the more complex diagnosis being preferred. By contrast, in D.D. (Appeal 15, 1974) evidence that a child whose IQ scores also fell in the retarded range was in fact brain-injured was dismissed by the hearing examiner, who simply applied the state-wide IQ standards to establish retardation; this decision too was upheld upon appeal.

The point is not that S.S. was rightly decided and consequently that D.D. is a bad decision, but that the two opinions are inconsistent in the way they undertake to identify the student's handicap. This inconsistency is not discussed in the opinions, buth of which base their decisions on a finding of "substantial evidence" (See John Doe, Appeal 1, 1973). But to treat the question in terms of evidentiary rules misconceives the analytic problem. The underlying question is not "Is there evidence (in D.D.) that the child has an IQ in the retarded range?" but rather, "Is this properly the end of the inquiry?" What is the relevance of the evidence concerning brain damage? What model of retardation is being adopted here? These are not mere legal queries. They go to the heart of the task set for the appellate process, the drafting of opinions which offer coherent guidance to concerned parents, school officials, and hearing officers in future cases. With respect to the diagnostic question, that guidance is not provided. There remains the suspicion that perhapt it cannot be provided that these questions are not susceptible to clear resolution in the forum of a due process hearing. At the least, they reveal the presence of disagreements within the helping professions, and serve as reminders that there are no monolithic professional--or, for that matter, bureaucratic or legal--world views.

Placement. The counterpart placement dilemmas concern children who show evidence both of retardation and of some other abnormality. A child who can be labelled retardate is appropriately assigned to a class or institution for retardates (educable, trainable, or profound); the multiply-handicapped child demands a more tailored placement. All school systems (including districts and intermediate units) operated programs for the retarded, while only some operated classes for the learning disabled, and almost none had a program offering simultaneous treatment for both kinds of handicaps. For this reason, the natural tendency of the schools, certainly one that made good bureaucartic sense, was to urge a retardate classification and program. But parents shunned the label "retardate," and sought a more individually designed program for their children. For this reason, questions concerning appropriateness of placement actually turned on the capacity of existing programs to address divergent needs, and these questions in turn led to disputes concerning the relationship between resource availability and appropriateness. Did "appropriate" mean "best," or "best" given what the school district presently offered?

Two early cases (John Doe, Appeal 1, 1973; Murray, Appeal 4, 1973) obliquely presented one aspect of this issue in assessing the "appropriateness" of institutionally provided education. In both cases the school district wished to discharge its educational obligation by certifying the child as ineducable by the public schools, and transferring responsibility for his training and welfare to the Department of Public Welfare, the agency in charge of residential institutions. The historic failure of such institutions to provide any education for their residents had served as a major impetus for *PARC;* furthermore, such institutions could in no event provide the best program for any child (compare *John Doe*, Appeal 16, 1974; continuation of Appeal 1).[9] Yet the permissibility of their attempting to undertake the educational task was clearly established in *John Doe*. Indeed, according to the administrative opinions, consideration of the public institutional option had to precede assessment of alternatives, for reasons having less to do with any qualitative advantages of public institutions than with cost considerations.

In placement disputes concerning children evincing retardation and learning disabilities, appeals decisions approved inconsistent hearing results. In one set of cases, the hearing examiner concluded (and the appeal confirmed) either that the "uniqueness" of a child was in fact an attribute shared by other retardates or that the school district could in a single classroom nominally labelled EMR offer tailored instruction (see *SH*, Appeal 7, 1973; *Michael Weinberg*, Appeal 8, 1973; *AZ*, Appeal 13, 1974). In *David*, (Appeal 39, 1976) the secretary approved continued placement in an intermediate unit program, rather than reassignment to a private school for a child evincing multiple handicaps, including severe retardation. That the intermediate unit did not meet its own "highly optimistic" goals for the child did not warrant reassignment. In another set of cases, elements of uniqueness were stressed, with no persuasive rationale offered to distinguish between types of cases (see Dennis, Appeal 24, 1975).

Weinberg is one of the rare instances in which the relationship between resource availability and program appropriateness is confronted directly. In that case, as the Secretary's opinion notes, an ideal program for the child would address both retardation and brain injury. "However, when such specialized programs are not available or are economically impracticable [sic], the hearing officer must determine which [available] education program would benefit the child most." This standard appears to limit the hearing officer to a choice among existing public alternatives, but subsequent portions of the opinion cast doubt on this analysis. For one thing, if existing criteria for program eligibility are inconsistent with the hearing officer's judgment of the evidence, these may not be used to constrain the hearing officer. That point is reaffirmed with respect to other programs, such as vocational education, which had used IQ or grades complete requirements to limit enrollment to "normal children": (See John Doe, Appeal 3, 1973). The Secretary's stance here clearly favors professional concerns over bureaucratic ones, and encourages flexibility of placement. For another, the force of the "economically impracticable" statement is undercut by reference in Weinberg to the possibility of private placement, which the hearing examiner may recommend without consideration of the cost if the "private school's program will benefit the child." If the public school has no single appropriate program, and a private program does exist, private placement may apparently be ordered. Yet the key unknown, the meaning of "appropriate", remains undefined in Weinberg. The opinion also does not address a vital, related question: May the hearing officer order the creation of a wholly new program?

That failure of specification plagues a great many of the appeals. LB (Appeal 10, 1974) attempts clarification: with respect to mentally retarded children, the district is required to provide "neither less nor more" than normal children receive. This is plainly wrong, for it is the very differentness, both of the children and of the assistance they require, which makes "less" or "more" meaningless standards to apply when comparing services offered to normal and handicapped children. Insofar as this standard refers to some mechanical yardstick, such as the hours of instruction (at issue in LB) or classroom size, the opinion is undercut by other decisions; were it otherwise, 24 hour care and instruction could never be ordered (see John Doe, Appeal 1, 1973). LB is an analytically false start on the path to defining appropriate placement.

Nor do any of the subsequent cases satisfactorily resolve the issue of what appropriate placement constitutes. In AZ (Appeal 13, 1974) the propriety of placement in a publicly-run program for retarded youngsters is made to turn on the fact that the private school for learning disabled youngsters which the child had attended had itself initiated the recommendation for reassignment. Were this in fact the case, the decision might be persuasive, but it is not; at the hearing, the private school's psychologist disputed the district's claim that the private school had recommended the change. In MG (Appeal 14, 1974), the district's desire to place the child in a kindergarten for the retarded, removing the child from a program for the emotionally disturbed where the parents had placed him, was termed not a "change" in assignment, which is required before parents can demand a hearing; hence, the district did not have to justify its action. This decision substitutes legalism of the worst sort for clear thinking. It misreads PARC and further muddles the process of determining appropriate placement.

A comparison of two other placement cases, Michael (Appeal 22, 1974) and Dennis (Appeal 24, 1975) reveals the depths of confusion concerning the standard to be applied in determining appropriate placement. In Michael, exhibits introduced by the parents concerning a range of disabilities, from "language learning disabilities" to slight hearing impairments including emotional problems, were intended to bolster their contention that EMR placement was not appropriate; to the hearing officer, in an opinion affirmed by the Secretary on appeal, none of these exceptionalities was "sufficiently extreme" to warrant a particularized program. In Dennis, a similarly multi-faceted presentation persuaded the hearing officer and the Secretary to order continued learning disability placement, overruling the district's preference for retardate placement.

The Dennis opinion also serves as the occasion for an attempted reconciliation of the relevant placement cases. But that reconciliation relies more on procedural matters--importantly, the deference given to hearing officers' actions--than on substantive guides which might be relied upon generally. Dennis insists that the hearing officer justify a particular placement recommendation where there is evidence of two confounding handicapping conditions. But what does this justification entail? Without clarity on this vital matter, the meaning of appropriate placement--quite like the meaning of appropriate identification--remains non-justiciable, or at least not captured by a comprehensible standard.

Control by Review: Managing an Emergent Legal System

Within the system created by PARC, the review process had two significant functions. It permitted the elaboration of substantive legal standards, refinements of the broad PARC provisions. It also provided an opportunity to manage the decision-making process, as carried out in the hearings.

These two functions--management of process and development of substantive law--are, of course, interrelated. The more coherent the substantive standards, for instance, the more likely it is that these standards will in fact be applied in the hearings. But the management function also involves other non-substantive tasks. In a new system designed to weld the best of the legal and professional modes of inquiry, it was essential that the virtues of the legal model--consistency, reliability of factual determinations, and the like--be secured. For this reason, it was essential to develop rules relating to burdens of proof, the admissibility of evidence, the respective role of hearing officer and disputant, and the like.

This enterprise can be appraised by assessing the operation of the hearings themselves, as the preceding chapter does. That analysis suggests that the attempt to impose legal (but non-legalistic) rationality on the decision-making process was only partly successful. Perhaps, as our observations suggest (Kirp, Kuriloff, Buss, 1975) the effort to encourage law-abidingness in the conduct of the hearings was hampered somewhat by a shared antagonism among educators to things legal. But the appellate opinions reveal a more serious impediment to the success of the management function: the state's inability to couch procedural direction-giving in comprehensible terms.

Appellate Treatment of Management Issues

The very first decided administrative appeal, John Doe (Appeal 1, 1973), was treated as an occasion for describing the nature of the hearing procedure, specifically the roles of the parties and the authority of the hearing officers. This effort accomplished two things. It defined a procedural structure almost wholly in terms of burdens of pleading and proof, without specifying what those burdens meant. It also set forth a narrow view of the scope of the hearing officer's authority, at least with respect to the specificity of remedy that could be ordered; in doing so, the opinion restricted the capacity of the examiner to solve educational problems within the PARC framework. The effect of Doe was to emphasize the traditional and legalistic, at the expense of less conventional (but by now quite familiar) efforts to link legal and policy-formulating functions. Ironically, the hearing officer--envisaged by PARC as less constrained than a law judge--became, in some respects, less able to act flexibly than his judicial counterpart.

Doe broadly identified the burdens of pleading and proof borne by each of the disputants. PARC had imposed upon the party proposing a change of student status the obligation to justify that change by showing "substantial evidence" in the face of an objection to the proposal. Since either parents or the district could be seeking a change, the allocation of the burden would not necessarily rest with the one or the other; or so PARC could be read. Doe, however, seemed to place the burden of substantiality with the district, whether or not it was proposing a change in status.[10]

What did such a burden imply? Said Doe: "The 'substantial evidence' requirement can be met by the official report if it contains reasons which, on their face, justify both a change in current assignment and the proposed assignment." As a guiding principle, this one is meaningless. What would a facially valid justification consist of? By itself, demonstration that a child's IQ scores are consistent with those of the proposed classification would not do; several subsequent decisions reject such a standard (see, e.g., S.S., Appeal 9, 1974). Evidence that the child is not doing well in his present assignment might justify some change, but not a particular change--and particularization is what the hearing is supposed to confront. And how could a "facial" statement assess the particular learning situation into which the child was to be placed, an assessment which the "appropriateness" standard also requires? (See, e.g., David, Appeal 23, 1975; Daniel, Appeal 26, 1975). Not that Doe was without effect. After the decision, a disputant would be well advised to offer as evidence whatever seemed relevant by any criterion, and hope that it persuaded the hearing officer. Quantity, not pointed relevance, would be the wisest approach.

In just one other case (Dennis, Appeal 24, 1975) is there an attempt to define "substantial evidence," and this effort is only somewhat more successful than Doe. The opinion offers an illustration of substantial evidence: an increase in a particular child's IQ while enrolled in a learning disability program is treated as reason for not approving a proposed transfer to an EMR class. The illustration, while reasonable enough, runs counter to the teaching of an earlier case. In MG (Appeal 14, 1974), evidence that a child's IQ had improved during time spent in a private school for learning and emotionally disabled children was deemed irrelevant. "There is no evidence to indicate that he could not have improved just as well [sic], if not better, had he enrolled at [the proposed public school placement]." Since the sort of "evidence" referred to in MG not only does not, but could never exist (no child can attend two educational programs simultaneously) the burden of persuasion placed upon parents in the two cases is clearly different. That inconsistency inveighs against the prospects for effectively controlling the hearing process through appellate decision.

Doe speaks more clearly to the hearing officer's role than to pleading and proof questions. In the Doe hearing itself, the hearing officer had ordered a specific private placement for a child whom the school district wished to assign to the Department of Public Welfare. This was an invalid act, the Secretary concluded: the hearing officer could only make a general recommendation concerning placement; the actual placement choice lay with the school district. As a substantive rule, this one makes little sense: often, there is only one appropriate placement, and the hearing officer should be permitted to specify it (assuming that its unique virtues can be articulated). As a rule of procedure, this decision allocated substantially more authority to the parties, and specifically to the school district, vis-a-vis the hearing officer, than PARC requires. After Doe, the district is presumably authorized to interpret the general placement recommendation as it sees fit, the parents' only recourse being to request yet another hearing.

A similar limiting of the hearing officer's remedial role is also evident in the reversal of two decisions which ordered relief desired by neither party, but which nonetheless was thought appropriate by the hearing officer (Stephen and James, Appeal 18, 1974; and Daniel, Appeal 26, 1975). While these decisions do not state that appropriate determinations are to be left exclusively to the parties, they implicitly set a substantially stricter standard of appellate administrative review in instances where the hearing examiner has imposed his own preferences than where one of the parties' views prevails. Doreen (Appeal 35, 1976) further muddies the waters. The decision affirms a hearing officer's recommendation, opposed by both parties. Doreen suggests that the hearing officer's decisions concerning appropriateness are not to be constrained by the parties' positions, but does not cite or discuss the earlier opinion.

To the extent that the post-PARC procedural rules limit hearing officers' remedy-framing capacity in this way, they are substantially more constricting than those applying to judges in, for example, "right to treatment" cases. There, the scope of judicial authority is thought to derive more flexibly from the specifics of the problem; consequently, far broader judge-developed remedies have been approved.[11]

Incursions From Without: The Emergent Legal System and Federal Judicial Review

The PARC decree essentially left the elaboration of the requirement that appropriate education and training be provided to the procedural apparatus that the decision created. Such autonomy was presumably intended to permit the new system to mature and, over time, to develop a coherent approach to issues of substance and process. Several subsequent decisions of the federal district court have, however, undercut such autonomy, and in so doing have diminished the significance of the administrative appeals process. Whatever the caliber of this process, authoritative decisions are not now its to make.

In Fialkowski v. Shapp (Note 30), brought on behalf of two multiply-handicapped children, money damages were sought from school officials who had allegedly provided these children only baby-sitting, not "appropriate" training. While the Fialkowskis had disputed the placement offered by the school district at an administrative hearing, they did not appeal the hearing decision to the Secretary, as PARC contemplates, but instead went to federal court. The fact, the court held, did not warrant judicial abstention--a conclusion which seriously underminded the potential authoritativeness of administrative appeals decisions.

By permitting a claim for damages to be heard, the federal court effectively enabled any family displeased with the level or quality of education its retarded child received to avoid the administrative process entirely, and proceed directly to court; under the relevant federal statutory provision, only the judiciary, not an administrative official, can adjudicate damage claims arising out of asserted deprivations of constitutional rights.[12] Presumably, once the damages claim has been decided in federal court, the court would have pendent jurisdiction over substantive claims concerning wrongful classification or treatment.

If the courts agree to hear appeals, parents of the handicapped might well do better than in the administrative hearing-review process, which, as Table 44 (p. 239) indicates, has generally favored the school system. Thus, in the first 29 appealed cases, the original hearing officer decisions favored parents only 20% of the time, while they favored schools over 67% of the time. The appeals procedure produced very little change in outcome. Parents were sustained three times among the six cases they originally won. They also won reversals in three cases they originally lost. Schools were sustained 16 times among the 20 cases they originally won, and won reversals in two cases they had lost.

If judicial appeals are widely used, the administrative process will cease to serve as a primary review instrument. Even those families who pursue the administrative reivew process to a conclusion may be able to start again in federal court: by not discussing the basis of

Table 44

The Outcome of the First Three and One-Half Years of Appeal Decisions in Relation to the Outcome of the Original Hearings

		Outcome of Original Hearings			
		Favored Parents	Favored School	Favored Neither (or no actual controversy)	Total
Outcome of Appeal Decision[a]	Favored Parents	3	3	0	6
	Favored School	2	16	0	18
	Favored Neither (or no actual controversy)	1	1	3	5
	Total	6	20	3	29[b]

[a] Appeal outcome was judged by David Kirp. A record of the cases falling within each category of this table is on file with the Project on Student Classification and the Law.

[b] Five cases were dismissed as moot or untimely on appeal, and are excluded from this table.

the administrative hearing's findings and hence suggesting the irrelevance of those findings, Fialkowski intimates that this would be permissible.

None of this was contemplated by PARC. But PARC envisioned the implementation of an effective administrative review-appeal system, and--in the judgment of Fialkowski--that has not happened. The court, seemingly incorporating plaintiff's assertions as its own, argues that ". . . although the PARC procedural safeguards may prevent total exclusion from school, they may not be adequate to prevent total exclusion from education."[13] The court specifically concludes that the hearing and appeal process define appropriateness in terms of state certification, ignoring the content of the actual program. That assertion oversimplifies; for, as the previous discussion indicates, the reality of the administrative opinions is both more complex and less coherent. Here, however, it is the judicial perception that matters most. By accepting plaintiffs' assertions concerning the administrative review process as descriptively accurate, Fialkowski pronounces the effort to create a law-like system a failure. "The exhaustion of state remedies by these plaintiffs is likely to be futile," the court concludes, both because of defects in the quality of fact-law determinations (defining appropriate treatment, in the context of that hardest of issues, "what is education?") and because of limitations on the scope of the remedy that may be ordered (the damages question).

Like Fialkowski, Frederick L. v. Thomas (Note 31) is critical of the hearing-review process, but on even more fundamental grounds. Fialkowski speaks to a failure fully to implement a process--adversary hearings and review--whose potential utility goes unquestioned. Frederick L. questions whether this very approach is not basically unsuited to the task at hand.

Frederick L. was a class action suit, brought on behalf of children with "specific learning disabilities," seeking a judicial injunction requiring the provision of an "adequate" education in "appropriate" facilities. The state asserted that it had already made such a statutory commitment, thus rendering an injunction unnecessary. It also stressed that the due process hearings mandated by the State Board of Education, identical to those provided in disputes centering on retardation, "will make the program for identifying learning disabled children fully effective."[14]

This reliance on the administrative due process mechanism to implement the new statutory entitlement was rejected by the court. The basic weakness of the approach, the court found, is that it depends on the parental initiation of review. Such initiation requires parental recognition that a problem exists--and the problems of learning disability may not be recognized by parents. If there is an entitlement to treatment addressed to this particular and subtle learning impediment, parents should not have to bear the burden of demonstrating its existence; it is for the state to "institute a system to identify" learning-disabled youngsters.

To put the point differently, the court finds the determination of programmatic adequacy and accurate classification should not depend on the outcome of an adversarial hearing. It is hard to imagine a harsher comment on the effectiveness of a procedural regime, at least insofar as it applies to this particular class of children, than this one. While Frederick L.'s conclusions are limited to the learning-disabled, the court's basis for distinguishing the retarded--the argument that retardates are more readily identified than the learning-disabled--is not convincing. Is learning disability really harder to diagnose than mild retardation? The PARC administrative appeals decisions themselves suggest the contrary. If parental initiative is an inadequate device for triggering attention in the one instance, why not also in the other?

Halderman v. Pennhurst State School and Hospital (Note 32) also severely bounds the autonomy of the administrative appeals process to resolve questions concerning appropriate education. Halderman confronts issues of institutionalization broadly; education and training is part of a larger concern with "habilitation." But the court, unlike the administrative hearings apparatus, is willing to entertain the claims of a class of individuals--all those residing at Pennhurst. In concluding that the plaintiff class's assignment to that institution violates their constitutional rights, and mandating the closing of Pennhurst, the court reaches a decision directly at odds with the substantive rulings of the administrative appeals procedure (see, e.g., John Doe, Appeal 1, 1973); it also limits the range of alternative placements which that procedure may order.

The ultimate effect of these decisions on the PARC-created legal system remains unsettled. Yet some things are clear. Frederick L., Fialkowski and Halderman mark a reentry of the federal judiciary in the post-PARC period.[15] Indeed, in recent years the PARC district court itself has assumed a vigorous role, meeting regularly with the parties to resolve disputes. Taken together, these developments suggest judicial recognition of the weaknesses of an administrative process which functioned essentially in lieu of federal judicial review during the several years following PARC.

These court cases may conceivably goad the administrative process into greater consistency and coherence, thus giving it new life. If that happens, there should be less inclination to seek relief in federal court, an undertaking which remains more time-consuming, more formal, and more costly than administrative review. But consistency and coherence, while devoutly to be wished, may not be achievable. It may be that these legal ideals are unrealizable, because the issues themselves are in fact not resolvable in trial-type proceedings. Decisions on similar questions reached by a federal district court more attentive to concerns of *stare decisis*, precedent and the like would test this hypothesis.

A Legal System?

Writing generally about "intermediate organizations," which seek to introduce bureaucratic values and procedures into existing organizations while leaving room for prevailing professional and traditional values, Martin Landau (1970) notes that such an enterprise:

> is by design (intention) nondeterministic in structure. The extent to which its internal processes are predictable and controllable is limited. . . .'Its basic processes are not fully established, rules are neither comprehensive nor exact, lines of authority are less formal . . . jurisdictions overlap, its communications are diverse and multichannelled, its categories not mutually exclusive, and its codes are more natural. (p. 413)

Although the values which the PARC-created hearing and appeals mechanism sought to introduce were legal rather than bureaucratic, the intention of the innovation was much the same: to invent new administrative apparatus which drew from the best of the received professional tradition and the legal tradition. Through that instrument, a law rooted in the particulars of its context would emerge naturally.[16]

Judged in these terms, PARC seems to have failed. Adherence to law, as usually understood, never took root. The incoherency of the administrative case law already noted, illustrates this failure; so too does the absence of references, in administrative opinions, to prior decisions. School officials, and to some extent hearing officers, adhered to the view that each case involved a unique determination. In such a decision-making framework, "precedent" had no relevance. This point emerges most clearly in CH (Appeal 5, 1973). The parents' lawyer sought to introduce another hearing officer's decision, arguing that it was sufficiently similar to the case at hand to be relevant. The school district opposed the proposal, insisting that each case had "too many variables" to render comparison useful. That position prevailed, for the hearing officer refused to take the decided case into account.

The perception of each decision as unique has limited the potential impact of the hearings. The aspiration of those who instigated PARC was that a given decision would reshape district policy with respect to all analogous disputes. In that way, the hearing-appeals system could contribute to securing justice for the class or similarly situated children, not just for the particular child. In one hearing, a statement made by the school district's representative hints at the realization of this hope. The hearing is referred to as a "learning experience . . . [witn] implications for the future." (Dennis, Appeal 24, 1975). But the reference is unique in this sample of cases. In the main, school systems perceived the scope of the holding in a given hearing as affecting only the particular child; another child posing the same issue would have to request a separate hearing. And PARC makes no explicit provision for class hearings, comparable to the class actions that those "similarly situated" bring in federal and state courts.

A clearer set of appellate decision-rules which clearly required changes in local school district practices might have produced different behavior; at least during the first four years of PARC implementation, these were not forthcoming. Alternatively, a substantial increase in the number of hearings demanded might have changed school district behavior towards classes of children, thus enhancing the prospects for class justice. The data provide some indication that school officials sought to avoid hearings, even if this necessitated voluntary changes: in 26 of the 480 cases in which parents requested due process hearings, the school district voluntarily adopted the parents' recommendation prior to the hearing, thus rendering the dispute moot. But the number of hearing requests was simply too small, at least during this four year period, and the burdens insufficiently onerous to produce a large amount of substantial voluntary change consistent with the PARC mandate. "Policy" and "due process hearings" were widely regarded as wholly different matters. Four years after the PARC decision, the hope that due process would have widespread impact--that it would function as an accountability mechanism to revolutionize the education available to exceptional children--proved premature.

This is of course, a most preliminary evaluation of the due process and appeals mechanism mandated by PARC. Due process was a novel concept for school districts and state educational agencies, even as late as 1976. There is some reason to suspect that considerable learning has subsequently occurred. For one thing, the number of appealed cases has increased substantially: almost 100 cases have been decided during the last three years, as contrasted with less than half that many during the first four years following PARC. For another thing, the Commonwealth has attempted to prepare its decisions with greater clarity: brief summaries, similar in form to headnotes in legal cases, are now prepared for each case; a lessening in the dramatic turnover among the lawyers who draft these opinions may contribute to somewhat greater comprehensibility. Whether the doctrinal implications of these decisions are any clearer, and whether the decisions as such have had a more profound impact on school districts' actions: these questions remain unanswered, at least for the moment.

Not that in shaping national policy, empirical answers to these issues were sought. Rather, Congress assumed that fair process, informed by professional and legal norms, could in fact be implemented in school districts throughout the nation, and that procedural fairness would generate substantively good outcomes in disputes concerning the appropriate education for handicapped children. The Education for All Handicapped Children Act of 1975 operates on just this premise.

PL-94-142 speaks about substantive programs in only the most general terms. And although it authorizes substantial federal funding, little funding has in fact been provided. Process is central:

> The heart of the federal control mechanism is a system of procedural safeguards which provides for parental involvement in educational placement decisions. In effect, the Act guarantees procedures whereby parents may challenge the appropriateness of their child's educational program, but provides only the most general guidelines for resolving the substantive questions such challenges may present. (Note, Harvard Law Review, p. 1103)

PARC may have led to policy reforms consistent with Congress's general concerns, including increased focus on the educational needs of the handicapped, greater interest in the equitable treatment of the handicapped vis-a-vis one another and encouragement of mainstreaming. Yet if this is what has happened, it has not been the availability of due process hearings but other factors, traceable to political accommodations and the continuing involvement of the court which have brought this result about. Pennsylvania officials and advocates for the handicapped have tacitly agreed that a fixed proportion of the Commonwealth's education budget should be spent on exceptional children; this agreement, essentially political in nature, has avoided endless wrangles concerning the necessary cost, on a state-wide basis, of an "appropriate" education, and has properly focused attention on improving the delivery of educational services. Policy disputes persist, but they are generally resolved in regular meetings of the affected parties, now constituting a "PARC task force," presided over (in a most informal manner) by the judge assigned to the PARC case. In that role, the judge attempts to reconcile competing views, to produce decisions concerning specific matters which satisfy the parties and are consistent with the general PARC mandate. This type of involvement requires that the judge take political as well as legal considerations fully into account; it is a far cry from the infusion of law that due process hearings are supposed to promote.

Such benign politicization, rather than an insistence on adherence to legal standards, may well accompany the implementation of PL 94-142. If it does, children should be the winners. But the allure of due process remains strong. In symbolic terms, the triumph of procedure represents a great victory for those concerned about the plight of the handicapped, another testimony to the seriousness with which the fairness-based claims of the handicapped are now taken. The effort to implement the PARC decree, however, argues for some lowering of aspirations. New legal regimes are harder to introduce into the professional and bureaucratic culture; once introduced, they are less suited to the task at hand than was once imagined. The result may be the trivialization of entitlements, with the existence of a hearing substituting for the provision of an appropriate education.

The availability of hearings also fosters the perception that a vexing problem, determining what constitutes fair treatment for the handicapped, has been solved. Yet the questions concerning the identification and placement of handicapped children which these due process hearings have addressed may not be amenable to solution given the state of present knowledge. Whether or not this is the case, law-like mechanisms may not have much to do with their ultimate resolution.

Footnotes to Chapter VI

1. Court-appointed masters did exercise such monitoring authority. Their terms expired two years after court approval of the consent decree. More recently, the court has undertaken an active role in resolving ongoing disputes; this point is taken up in the conclusion to the chapter.

2. See Kirp (1976).

3. For a treatment of these issues, in the context of juvenile law and child custody, see Mnookin (1978).

4. Because administrative appeals decisions, but not hearing opinions, are supposed to be widely available, these have broader impact on the process of defining "appropriateness."

5. The Pennsylvania statute, but not the federal legislation, permits allegedly gifted children to take advantage of the hearing requirement.

6. Research for this chapter was substantially completed in 1977, at which time only those opinions issued before the end of the 1974-75 school year were available. While the volume of opinions issued in the intervening three years makes inclusion of these impractical, brief reference is made to these decisions in the concluding section. Since they dealt with appeals involving all types of exceptional children, including the gifted, this limitation has the virtue of keeping our discussion of the emergent legal system comparable to our earlier discussions of other aspects of PARC implementation.

7. This sytem of citation is used throughout Chapter VI. All appeals are on file with the Pennsylvania State Department of Education, Harrisburg, Pennsylvania.

8. Unless explicitly noted, all cases discussed here were originally heard prior to the end of the 1975 school year. Subsequent appeals, of course, often carried over into later years.

9. This situation was not much changed by the formal transfer of responsibility for the education of children in state institutions from the Department of Public Welfare to the Department of Education. The transfer took place in 1972. While our field observations suggested that such children did fare better after the transfer (mostly because many of them were then bused out of the institutions to classes run by intermediate units) they still spent most of their time each day in relatively bleak institutional surroundings. See p. 242 above.

10. Appearances may deceive. In MG (Appeal 14, 1974) the burden of justification is placed on the parents, who are seeking support for continued private placement. Because the public school system had not previously subsidized the private placement, the public offering was deemed not to be a "change of status."

11. For an empircal discussion of this question in a different substantive context, see Harris and Dudley (1977).

12. See Fialkowski v. Shapp, p. 957.

13. See Fialkowski v. Shapp, p. 957.

14. Frederick L. v. Thomas, 408 F. Supp. at 837.

15. Compare Kirp (1977).

16. Compare Selznick (1969).

REFERENCE NOTES

1. *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, 343, F. Supp. 279 (E.D. Pa. 1972).

2. *Brown v. Board of Education*, 347 U.S. 483, (1954).

3. *Tidewater Society for Autistic Children v. Tidewater Board of Education*, No. 426-72-N (ED. Va. Dec 26, 1972).

4. *Hobson v. Hansen*, 269 F Supp. 401, 490-91 (D. D. C. 1967), appeal dismissed, 393 U.S. 801 (1968), affirmed en barc sub. norm. *Smuck v. Hobson*, 408 F. 2d 175, 187 (D.C. Cir. 1969).

5. *Diana v. State Board of Education*, No. C-70-37 (N.D. Cal., 1970).

6. *Mills v. Board of Education*, 346 F. Supp. 866 (D.D.C. 1972).

7. *Larry D. v. Riles*, 343 F. Supp. 1306 (N.D. Cal. 1972).

8. *Lau v. Nichols*, 483, F. 2d (9th Cir. 1973), Cert granted 412 US938 (1973).

9. *Serna v. Portales Municipal Schools*, 351 F. Supp. 1279 (DN.M. 1972).

10. *Mass. Gen. Laws*, ch. 766 (1972).

11. *California Education Code*, Section 6902 and Section 6755 (West, 1973).

12. *Education of All Handicapped Children Act of 1975*, P.B.L. No. 94-142, *89 Stat. 773 (1975)*. (Codified at 20 U.S.O. §§1401-1461 (1976).

13. *Pa. Stat. Ann*. Ch. 24, 13-1330, 13-1375 (Supp. 1973).

14. *In re Educational Assignment for John Doe*; PARC Appeal No. 1, Commonwealth of Pennsylvania, Department of Education, Harrisburg, Pa., 1973.

15. *In re Educational Assignment for CH*, PARC Appeal No. 5, Commonwealth of Pennsylvania, Department of Education, Harrisburg, Pa, 1973.

16. In re Educational Assignment for Michael Weinberg, PARC Appeal No. 8, Commonwealth of Pennsylvania, Department of Education, Harrisburg, Pa., (1973).

17. Pittenger, J. Education of the handicapped: The triumph of rhetoric over reality. Unpublished manuscript, 1968. On file with the Project on Student Classification and the Law, University of Pennsylvania, 3700 Walnut, Philadelphia, Pa., 19104.

18. Pennsylvania State Department of Education. Basic Education Circulars, Numbers 139, 1974; 148, 1974; 71-75; 82-75, 1975; 102-75, 1975; and 184, 1975. Harrisburg, Pa.

19. Pennsylvania State Department of Education. School Administrators Memoranda, Numbers 449, 1971; 504, 1972; 568, 1972; 580, 1973. Harrisburg, Pa.

20. Pennsylvania Department of Justice. Opinions of the Attorney General, Numbers 35, 1971; 73, 1971; 74, 1971; 56, 1973; 69, 1973; 44, 1974. Harrisburg, Pa.

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APPENDIX I

PARC: A CASE STUDY OF THE INITIAL IMPLEMENTATION OF A MAJOR ATTEMPT TO REFORM SPECIAL EDUCATION THROUGH LAW

A. *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*[52]

For many years Pennsylvania has required that all children between the ages of eight and 17 attend school.[53] However, any child judged by a school psychologist to be "unable to profit from further school attandance"[54] or "ineducable and untrainable"[55] was excused—or, more accurately, excluded—from the public schools. In operation, these provisions doomed severely retarded children to institutions providing little, if any, education,[56] or to the backrooms or attics of their homes.

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[52] 343 F. Supp. 279 (E.D. Pa. 1972).

Field research for this section was conducted between November 1972 and July 1973. The researchers interviewed state education officers, parent organization officials, the court-appointed Masters, administrators, school psychologists and special education personnel in six districts. Where the source of information is not indicated, the information could not have been used if the source had not remained confidential.

The authors are currently undertaking a three-year assignment of the effects of the Pennsylvania decree at the state, school district and local levels.

The final phase of research for this section was partially supported by grant NE G-00-3-0192 from the National Institute of Education.

[53] Pa. Stat. Ann. ch. 24, § 13-1326 (1962).

[54] *Id.* § 13-1330 (Supp. 1973).

[55] *Id.* § 13-1375 (Supp. 1973).

[56] Pennsylvania Ass'n for Retarded Children v. Commonwealth, 343 F. Supp. 279

This appendix is excerpted from an original work by David Kirp, William Buss and Peter Kuriloff, entitled: Legal reform of special education: Empirical studies and procedural proposals. California Law Review, 1974,62,40-155.

In 1971, the Pennsylvania Association for Retarded Children (PARC), long involved in problems of the retarded, filed suit challenging the constitutionality of excluding severely retarded children from school. While PARC had been active in a host of issues concerning the retarded, litigation was a novel approach for the organization. Two years before the suit was filed, Thomas K. Gilhool, the the Philadelphia attorney who ultimately argued the case, first suggested the tactic: "Litigation is one role among many, whereby the Association may encourage and expedite the kind of change it seeks in the care and treatment of retarded children."[57]

P.A.R.C. was a seminal suit. It asserted that Pennsylvania's failure to offer any education to severely retarded children represented a denial of equal protection, and that assignment of youngsters to programs for the retarded, unless preceded by notice and the opportunity for a hearing, denied them due process of law. While both claims were legally novel, the three-judge federal district court never had to rule on the merits of the constitutional claims. In October 1971, after several hearings before the court, the suit was tentatively settled. The settlement was ratified in May 1972.[58]

P.A.R.C. mandates sweeping changes in the education of the retarded. It requires that the state locate and identify all excluded youngsters; that local districts undertake thorough medical and psychological evaluation of previously excluded children, of children presently in classes for the retarded, and of children recommended for such classes;[59] and that all children in special classes automatically be reevaluated every two years (the old statute called for reevaluation every three years or every year on parental demand) and any time a change in childrens' programs is contemplated.[60] Finally, *P.A.R.C.* required that all retarded children be placed in a "free public program of education and training appropriate to the child's capacity."[61] While the consent agreement did not specifically define appropriateness, it did declare that regular class placement was "preferable" to placement in any

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(E.D. Pa. 1972) [hereinafter cited as P.A.R.C.]. Of the 4,519 children of school age in Pennsylvania institutions, at the time of the suit, 100 were in a full education and training program, 1,700 were in partial but inadequate programs, and 3,259 received no education program. *Id.* at 296.

[57] L. LIPPMAN and I. GOLDBERG, RIGHT TO EDUCATION: AN ANATOMY OF THE PENNSYLVANIA CASE AND ITS IMPLICATIONS FOR CHILDREN 20 (1973) [hereinafter cited as RIGHT TO EDUCATION].

[58] Because the court was asked only to ratify the consent decree it did not reach the merits of the constitutional claims. Rather, the court concluded that they were constitutionally "colorable." 343 F. Supp. at 295, 297.

[59] *Id.* at 315.

[60] *Id.* at 303, 315.

[61] *Id.* at 285.

other kind of program."[62] Parents dissatisfied with the school district's placement recommendation were given the right to a hearing before an impartial hearing officer.[63] To oversee the decision, the court appointed two masters: Dennis Haggerty, an attorney in Philadelphia and a former PARC officer, and Doctor Herbert Goldstein, a professor of Special Education at Yeshiva University in New York City.[64] The *P.A.R.C.* decree was headline news across the country. Immediately after the tentative consent agreement was announced, Governor Milton J. Shapp, a progressive Democrat strongly committed to the enterprise, appeared at a press conference with PARC officials to endorse it. He also made numerous spot announcements on television and radio to explain the scope of the decision. The *New York Times* called the decision "a historic step in an area that suffered from public and professional neglect."[65] The National Association for Retarded Children and the Council for Exceptional Children goaded their membership to imitation. A book analyzing the significance of the case was rushed into print.[66]

1. *Implementation of* P.A.R.C.

Once the decree was finally approved on May 5, 1972, Governor Shapp created a Right to Education Office, federally funded on a one-year renewable basis, to oversee the implementation of the consent agreement. But even with the help of a statewide agency, implementing *P.A.R.C.* has proved extremely difficult.[67] It has demanded an enormous expenditure of effort and dollars to identify, evaluate, and place previously excluded youngsters and to reevaluate the retarded children presently in schools. The indeterminate size of the class (estimates ranged between 70,000 and 100,000)[68] as well as lack of agreement as to the characteristics of the excluded group compounded the problem. Also, as Robert Burt has noted: "[T]he federal court did not resolve a dispute between contesting parties, but instead ratified an agreement between advocates for children services and professional service agencies to raid state treasuries for greater funds on behalf of their shared clientele."[69] But at the time of the consent agreement no one knew just what additional resources were needed, where they should be located and who should assume responsibility for administering them.

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[62] *Id.* at 307.

[63] *Id.* at 303-05. An indeterminate group of children residing in state schools and hospitals were left to the care of the Department of Public Welfare, which also was charged with providing "appropriate" education under the supervision of the Department of Education. *Id.* at 312-13.

[64] *Id.* at 314.

[65] N.Y. Times, Oct. 13, 1971, at 44, col. 1.

[66] RIGHT TO EDUCATION, *supra* note 57.

[67] Thomas K. Gilhool, PARC's lawyer, was well aware of this fact. Shortly after the decree, he "quickly warned his clients that court decisions are no more self-enforcing than are statutes. A court order will require follow-up by interested parties." RIGHT TO EDUCATION, *supra* note 57, at 46.

[68] During the identification period, estimates of the size of both the previously excluded group and the entire class of children fluctuated enormously. PARC literature estimated that there were 100,000 retarded children in the state. The Spare (Philadelphia Association for Retarded Children Newsletter, Special Childhood Issue) (Spring, 1973). Since the best State Department of Education estimates put the number of retarded children in school at 50,000, PARC expected to find as many as 50,000 excluded children. In January, 1973, Tom Gilhool stated that the best estimate

a. Identification

The consent decree demanded that first priority be given to finding excluded youngsters. The Right to Education Office sought out children in ingenious ways. Through *COMPILE (Commonwealth Plan for Identification, Location and Evaluation of Mentally Retarded Children)*,[70] it arranged to place notices in all state liquor store packages and welfare checks, send letters home with all school children, publish regular announcements in at least one local newspaper in each area of the state, and establish a toll-free phone service through which anyone might report the existence of an excluded child. All school districts as well as all state agencies dealing with school-age children were required to search their records for youngsters who were not enrolled in some educational program. To ascertain the accuracy of the identification process, *COMPILE* called for a door-to-door census in three representative school districts (urban, suburban and rural). Simultaneously, PARC itself organized a parallel undertaking, "Operation Childhunt," turning over to the Right to Education Office the names that it uncovered.[71]

The identification process generally went well, but not without hitches. The most noteworthy noncompliance occurred in Philadelphia. School administrators there claimed to have completed their en-

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was 25,000. [Gilhool, *The Uses of Litigation: The Right of Retarded Children to a Free Public Education*, 50 Peabody J. of Educ. 123 (1973).] Such figures were based on school census data as well as on projections based on an expectation that approximately 5 percent of the population falls, by statistical definition, below the state mandated criterion (I.Q. 75) for admission to special education.

[69] Burt, Beyond the Right to Treatment: Strategies for Judicial Action to Aid the Retarded (report prepared for the President's Commission on Mental Retardation and the Project on the Classification of Exceptional Children, Vanderbilt University).

[70] Pa. Dep'ts of Educ. and Pub. Welfare, Compile: Commonwealth Plan for Identification, Location, and Evaluation of Mentally Retarded Children, 1972 [hereinafter cited as COMPILE].

[71] PARC developed a list of approximately 20,000 pupils. Most of these overlapped with those found through COMPILE. Interview with Marlene Smoker, Assistant Director of PARC, in Harrisburg, Pa., June 28, 1973.

tire search in one week, prior to the development of *COMPILE*.[72] In a lengthy rebuttal the Masters found Philadelphia in wilful noncompliance, determined that Philadelphia officials had no intention of making a serious effort to comply, and asked the court to order them to do so.[73] Their strong stand led to several meetings among the litigants and, in December 1972, to the submission of a plan acceptible to all parties. By February 1973, a full year after the deadline, the Masters were finally satisfied that Philadelphia was taking positive steps toward compliance.[74]

Only slightly less serious were the problems of implementing *COMPILE* in the state schools and hospitals. By August 1972—seven months after the judicially established deadline for initial screening had passed—the State Department of Public Welfare (DPW) had not provided the Right to Education Office with any data about institutionalized children. The Masters attributed the delay to the problems of inter-agency cooperation and begged the court's indulgence.[75] By November 1972, the Masters had grown impatient. Although they still had no accurate data, they estimated that at least thirty percent of the children in state schools and hospitals were receiving no education, while the remaining seventy percent were receiving only one to five hours each week. The Masters asked the court to order the Department of Public Welfare to complete *COMPILE* by January 2, 1973.[76] Before the court acted, the Department of Public Welfare met the deadline, although as late as June 1973, 200 children in Allentown State Hospital still had not been screened.[77]

There is general agreement among the interested parties that the vast majority of previously excluded children have been found. The rural and suburban census turned up less than a dozen children who had been missed by Childhunt and *COMPILE*.[78] By April 25, 1973, *COMPILE* had identified approximately 19,000 children as possibly retarded. Of these, about 4,000 were found not to be retarded, and of the remaining 15,000, only 7,398 were excluded from any program of education—far fewer than either PARC or the Commonwealth had anticipated. Of the 7,398, 2,571 were severely and profoundly retarded and had never been in any program; another 1,227 were in private licensed facilities providing interim care as they awaited admission to state schools. Finally, 3,600 were in state schools and hospitals.[79]

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[72] Stipulation of Facts Concerning Compliance by Co-defendant School District of Philadelphia (filed Aug. 1, 1972), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972).

[73] First and Interim Report of the Masters at 69 (filed Aug. 2, 1973), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972) [hereinafter cited as First Report].

[74] Third and Interim Report of the Masters at 2 (filed Mar. 9, 1973), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972) [hereinafter cited as Third Report].

[75] First Report, *supra* note 73, at 2-3.

[76] Second and Interim Report of the Masters at 2 (filed Nov. 19, 1972), P.A.R.C., 343 F. Supp. 279 (E.D. Pa. 1972) [hereinafter referred to as Second Report].

[77] Presentation of Gary Makuch, Dep't of Public Welfare representative, Masters Hearing, June 12, 1973. [Transcripts of the Masters Hearings on this and other dates cited below are on file at the Right to Education Office (REO) in Harrisburg, Pa., and with Peter Kuriloff.] The Commonwealth of Pennsylvania distinguishes between "state schools and hospitals," which are primarily for the retarded, and state hospitals, which are primarily for the mentally ill. Nevertheless, COMPILE calls for the identification of all children who possibly might be retarded. The process by which these leads are then assessed to determine which are false and which merit further extensive evaluation is referred to as "screening." Since the operational criteria for admission to state institutions has never been especially well related to diagnosis, the 200 children in Allentown State Hospital should have been screened.

These figures indicate the success of the identification process—a success made possible by the commitment of most of Pennsylvania's public officials, the prodding of the Masters, the energetic program of PARC and, perhaps, by the fact that the goal was concrete and easily understood.

b. *Evaluation*

The *P.A.R.C.* decree mandated that all excluded children be evaluated and appropriately placed by September 1, 1972, a timetable which in many districts proved infeasible. Over 60,000 children had to be evaluated or reevaluated by procedures which were much more complicated and elaborate than they had been prior to *P.A.R.C.* It now takes approximately four-and-one-half to five hours for the evaluation of each child. A conservative estimate thus suggests that each Pennsylvania school psychologist spent between 350 and 400 hours simply doing the assessments required by *COMPILE*.[80] Overwhelmed by these new demands, they often found classroom space for children first and evaluated them when time permitted. Children previously assigned to classes for the retarded remained there until reassessments could be made.[81] By January 1973, most of the evaluations had been done in all areas of the state except Philadelphia. Most districts had also started the reevaluations. Philadelphia, openly resistant through 1972 and then plagued by strikes and fiscal crises, did not begin to complete its obligations under *COMPILE* until the spring of 1973.

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[78] The urban census was the subject of a political battle between the State Department of Education and the Pittsburgh School Board and did not get underway until June, 1973. Interview of Peter Kuriloff with Joseph Lantzer, Director of RFO, in Harrisburg, Pa., May 8, 1973. *See also* Masters Hearings, Dec. 12, 1972, and Jan. 16, 1973.

[79] Telephone interview of Peter Kuriloff with William Benson, Area coordinator of RFO, Apr. 28, 1973. The figures are derived from a computer printout data sheet on file in the RFO office and represent the most accurate picture available as of April 25, 1973. In this regard, it is interesting that the office was not able to break down the data further so as to show how many of the previously excluded children are now classified as educable, trainable, profound, etc. It is perhaps indicative of the organizational obstacles to successful *P.A.R.C.* implementation that the state office in charge of overseeing it has not developed, by mid-1973, information vital to that enterprise.

[80] These estimates were arrived at as follows: *P.A.R.C.* required that elaborate reevaluations be carried out on at least half of the 51,000 retarded children in school. It also required that the 10,000 new retarded children (including 7,398 previously excluded children) be evaluated. Interviews conducted by RFO Regional Representative Jerry Heatsum with 47 of the approximately 400 psychologists in the state educa-

In an effort to avoid the all-too-common, simplistic diagnoses (which often said little more than "Janet is a cute, lovable, but slow child"), *COMPILE* requested that evaluations include information concerning a wide variety of behavorial characteristics. It called for psychological testing using the "most valid and reliable instruments generally recognized by the profession,"[82] a review of the child's educational status (if he was in school), an inquiry into the child's family history to determine how well he coped outside of school, and a medical examination.

Such a multi-faceted inquiry was essential to develop what *COMPILE* called "a continuing diagnostic prescriptive and psychoeducational plan."[83] But because it might involve a physician, a psychiatrist, a neurologist, a public health nurse, a social worker, and a speech therapist, among others, the evaluation was time-consuming, and required extensive managerial skill by the coordinating school psychologist. Its implementation depended on the willingness of the school organization to make available the resources necessary to accomplish the evaluation and to make use of the evaluation in devising program placements.

The ability of the individual psychologist undertaking the evaluation was also of critical importance. The school psychologist selects the test instruments, determines who will take part in assessing the child's difficulties, and decides whether to perform all of the recom-

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tion systems, representing 26 intermediate units, indicate that approximately 4.5 hours were required to carry out each assessment. Thus, (25,500 + 10,000 × 4.5) ÷ 400 = 399.4 hours per school psychologist. Presentation of Jerry Hearsum, RIO Regional Representative, Masters Hearing, June 12, 1973.

[81] These findings, and those presented *infra* on the impact of *PARC* at the district level, are based on Peter Kuriloff's interviews with administrators, school psychologists and teachers in Philadelphia and five of its suburbs. (Notes on file with Peter Kuriloff.) As such, they only are indicative of what is happening in the most populous area of the state and only are suggestive of what may be going on in other areas. Gaining the latter data was beyond the resources of this inquiry, in that it would have required extensive interview and survey techniques in a representative sample of districts. Neither was it available from the transcripts of the Masters Hearings since these tended to focus on the broader problems of implementation.

[82] COMPILE, *supra* note 70, at 8.

[83] *Id.* at 9.

mended evaluative procedures. When conducted by a harassed psychologist—and after *P.A.R.C.* almost all Pennsylvania school psychologists were harassed—the ideal evaluation sometimes gave way to hasty processing. In districts with large numbers of previously excluded children, time, personnel, and resources were too limited to translate *COMPILE's* demands for prescriptive evaluation into effective practice.

Other factors have impaired the quality of evaluations. While *P.A.R.C.* requires that all children placed in programs for the retarded be reevaluated much more thoroughly than previously, the demands of assessing children who had never been evaluated for public school placement encouraged routine affirmation of prior decisions. In one probably not atypical district a psychologist filled out reevaluation forms by copying information from old evaluations. This practice is particularly questionable in light of research findings indicating that substantial numbers of children in the five-county, greater-Philadelphia area have in fact been misclassified as retarded.[84]

Organizational pressures also played a role in distorting the quality of evaluation. In districts anxious to maintain high enrollments in classes for the retarded—and thus maintain their levels of state aid—[85] psychologists were pressured to test children with instruments such as the Stanford-Binet which characteristically yield lower scores than other I.Q. tests.[86] One director of pupil personnel services expressed the hope that such an approach would "keep these children where they are and avoid stirring up their parents."

But even in the vast majority of cases where the psychologists performed in a professional manner, they have seriously criticized the 14-page, "Commonwealth Right-to-Education Evaluation Form"[87] they are required to fill out in addition to any reports they write based on the tests they administer. They have found the scales contained in the form inappropriate for profoundly retarded children—the very children most likely to have been excluded. Many psychologists believe that the standards for evaluation themselves are not adequate. More important, the standards do not protect against evaluation practices which reflect the schools' limited resources and organizational pressures.

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[84] *See* Garrison & Hammill, *Who Are the Retarded?*, 38 EXCEPTIONAL CHILDREN 13 (1971).

[85] School districts in Pennsylvania are required to spend an amount equal to their average yearly per-pupil expenditure on their handicapped children. The difference between that figure and what it actually costs to educate them is borne by the state. Dep't of Education, Commonwealth of Pa., Harrisburg, Pa., Supplement Three: School Laws of Pennsylvania (Cumulative Annual Supplement for use in 1973) § 2508, at 18-19.

[86] Clever psychologists can play this game too. One director of special education described how she and her fellow psychologists used to use instruments which produced low scores whenever they had a child who desperately needed special placement and the only ones available were EMR and TMR classes. Conversely, she stated that now most psychologists she knows refuse to label a child retarded on the basis of one score from any instrument. Interview of Peter Kuriloff with Elizabeth Long, Director of Special Education for William Penn School Dist., Yeadon, Pa., in Yeadon, Apr. 9, 1973.

[87] COMMONWEALTH OF PA., RIGHT TO EDUCATION OFFICE, RIGHT TO EDUCATION EVALUATION FORM (DEBE-1051) May, 1972.

c. *"Appropriate" Placement*

The *P.A.R.C.* consent agreement required Pennsylvania to submit to the Masters a plan specifying

> the range of programs of education and training, their kind and number necessary to provide an appropriate program of education and training to all mentally retarded children, where they shall be conducted, arrangements for their financing, and, if additional teachers are found to be necessary, recruitment, hiring and training arrangements.[88]

COMPET (the Commonwealth Plan to Educate and Train Mentally Retarded Children),[89] which the state published in the late Summer of 1972, does not meet the consent agreement's requirements. As one PARC official pointed out, it does not specify a full range of programs; the kind and number of classes; the location of the classes; the arrangements for funding them; the standards, methods of recruiting, and training of teachers; and the standards for the curricula of various programs.[90] It is, instead, what one critic called a "cook book version of a curriculum guide,"[91] which discusses teaching strategies for a wide range of retarded children.[92] For the state to produce a curriculum for exceptional children before figuring out where the curriculum might be used is to put the pedogogical cart before the organizational horse. As James Gallagher, an expert in the field of special education, commented:

> An extensive curriculum such as presented here [in *COMPET*] is useful only after one has settled where and under what circumstances the child is going to receive that curriculum. . . . The crucial elements of planning, namely, precisely what is going to be done to whom under what set of circumstances, still remain something

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[88] 343 F. Supp. at 315.

[89] Pa. Dep'ts of Educ. and Pub. Welfare, Compet: Commonwealth Plan for Education and Training of Mentally Retarded Children (1972) [hereinafter cited as Compet].

[90] *Id.* at 166-67.

[91] Letter from John A. Abbruzzese, Jr., to Dr. William F. Ortman, Director, Bureau of Special Education, Aug. 30, 1972, in *id.* at 176.

[92] *COMPET*, *passim*, discusses everything from teaching a child to raise his head in a coordinated manner to developing good judgment and reasoning at common sense situations.

of a mystery. Even more so are budget estimates of what additional resources will be needed to carry out these intentions.[93]

While *COMPET*'s shortcomings may be attributed in part to the three-month completion deadline imposed by court orders, restricting the plan to a narrow discussion of curricula may have been designed to avoid the ticklish "appropriate" education cost/manpower trade-off problems with which the consent decree itself had not reckoned.[94]

COMPET ignores the most basic implementation question: will an "appropriate" education be provided for all retarded Pennsylvania children? To insist that each child receive "appropriate" instruction threatens the organizational status quo. Special educators and program administrators often handle this threat by denying it, giving rise to claims frequently heard in field interviews to the effect that *P.A.R.C.* has had little impact "because we've been doing it all along anyway."[95] Yet "appropriate" does not necessarily mean more of the same: organizational rigidity is not a justification for lack of educational alternatives. In order to understand the impact of such a standard on existing school practices, a brief description of Pennsylvania's pre-*P.A.R.C.* special education programs is needed.

In Pennsylvania (and many other states) the multiplication of special programs has been taken as a sign of pedagogical progress. State funds pay for most of these programs, including classes for the educable and trainable mentally retarded, the physically handicapped, the brain injured, and the socially and emotionally maladjusted.[96] Special educators generally regard such programs as exhausting the range of "appropriate" placements and view their task as determining which is best suited to a given child. The categories themselves usually remain unquestioned, even in those districts which dramatically increased their special education budgets in order to accommodate previously excluded children.[97]

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[93] Letter from James J. Gallagher, Director, Frank Porter Graham Child Development Center, University of North Carolina to Peter P. Polloni, Executive Director, PARC, Aug. 25, 1972, in COMPET, *supra* note 89, at 168.

[94] Second Report, *supra* note 76. The Masters recognized that COMPET is a tentative document to be revised in light of the 1972-73 school year experiences. In the spring of 1973, the Masters appointed an evaluation team to review COMPET and to recommend appropriate revisions.

[95] In the field interviews this was heard several times, once from a highly respected associate superintendent of schools whose area of responsibility included special education.

[96] *See* PA. STAT. ANN. ch. 24, §§ 13-1373, 25-2509 to -2509.1 (Supp. 1973).

[97] The Delaware County Intermediate Unit adopted a special education budget for 1972-73 of $3.3 million, an increase of 28 percent over the previous year. Because PARC expenditures do not have their own line in the budget, it was not possible to determine how much of this was spent on expanding existing programs or developing new ones. Telephone interview of Peter Kuriloff with Dr. Laura W. Murphy, Director of Special Education, Delaware County Intermediate Unit, Mar. 27, 1973.

P.A.R.C. did not necessarily endorse the status quo as the preferred solution, but neither the decree nor *COMPET* provided alternatives. In some districts the short-term outcome appears to have been noncompliance or foot dragging resistance. Philadelphia has barely begun to institute *COMPET*. When the district failed to heed the order of the Masters to do so in the summer of 1972, PARC itself went back to the court in late August. The court ordered Philadelphia to comply by September 1—an admittedly unrealistic demand. In October PARC went to court again, and this time the school district was ordered to prepare an acceptable plan for implementation by January 2, 1973.[98] A political dispute in Pittsburgh led the city to refuse to undertake a census of school-age children. The district reopened abandoned schoolhouses for previously excluded children. As one PARC official commented, "The city went out of its way to treat these students as second class citizens." Pittsburgh also tried to use its school disciplinary code as a vehicle for continuing the exclusion of two children it had evaluated under *COMPET*. This situation was resolved by the Masters, who got the children readmitted through arbitration and then sought an Attorney General's Opinion which forbade all school districts from using disciplinary codes to exclude retarded children.[99]

A more complicated issue of compliance arose in regard to the provision of appropriate education to children in state schools and hospitals. Under the terms of the consent agreement, the educational program was to be provided by the Department of Public Welfare under the supervision of the Department of Education. This arrangement created serious organizational and financial problems. The Department of Public Welfare received no additional money to cover the initial costs of the program. Only by taking funds away from other programs was the Department able to scrape up approximately a half-million dollars for this purpose. Because state facilities were already overcrowded, understaffed, and underfinanced, there was little leeway for creative implementation. By February 1973, however, the Department had agreed to make 1,950 new staff positions available,[100] of which 1,550 were to be used to provide education in current state schools and hospitals, and 250 to staff a soon-to-be-opened institution.[101] These positions were to paid for out of a proposed—but as of yet, not obtained—Department of Public Welfare budget increase of 47 million dollars.[102]

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[98] Order (filed June 15, 1973), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972).

[99] First Report, *supra* note 73, at 2.

[100] Third Report, *supra* note 74.

[101] *Id.*

[102] Philadelphia Inquirer, Feb. 13, 1973, at 6-C, col. 1. This proposal en-

A more subtle but still serious organizational difficulty was created by an administratively sensible agreement, worked out between the state Departments of Public Welfare and Education, that programs sponsored by the Department of Public Welfare were to be supervised by the Department of Education. For years state school and hospital employees had been caring for children the schools had rejected as ineducable. This widely held notion of ineducability had led the Department of Public Welfare to hire unskilled paraprofessionals to provide care for the "hopeless cases" residing in state schools and hospitals.[103] The agreement meant that people who were only marginally competent suddenly found themselves considered educators under the supervision of schools which had only recently rejected the children to be educated, a situation which created antagonisms.[104] The need for the Department of Public Welfare to develop expertise already possessed by the educational establishment made the gap between the professional competence of educators and hospital workers more explicit, and tensions further increased.[105] At the prodding of the Masters, representatives of the schools and the state hospitals began a series of meetings in spring of 1973 which resulted in an agreement in principle to divide responsibility for providing education to the hospitalized children.[106] Under the agreement, the Department of Public Welfare provides funds for the programs which the Department of Education staffs and runs.[107]

The relationship between the Departments of Education and Welfare also became a problem in securing compliance with *P.A.R.C.* standards by private licensed facilities and private licensed schools. Private licensed facilities operate under license from the Department of Public Welfare to provide interim care for children waiting to get into state hospitals. The standards for licensing are minimal, involving

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countered the typical legislative difficulty that funds for retarded children (and other Department of Public Welfare programs) often are the first trimmed in a search for fiscal responsibility. Cuts forced the reduction of these positions and have prevented the opening of the new state school.

[103] One authority believes that special education has operated for years under an "inverse law" such that the more handicapped the child, the less competence the teacher who worked with him was thought to need. Interview of Peter Kuriloff with Dr. Herbert Goldstein, in Philadelphia, Pa., June 11, 1973.

[104] Interview of Peter Kuriloff with Dennis Haggerty, P.A.R.C. Master, in Philadelphia, Pa., May 8, 1973.

[105] Presentation of Gary Makuch, Dep't of Public Welfare representative, Masters Hearing, July 10, 1973 (progress report on the transfer of responsibility for the education of children in state schools and hospitals from the Department of Public Welfare to the Department of Education).

[106] Interview, *supra* note 104.

[107] Interview of Peter Kuriloff with Gary Makuch of the Dep't of Public Welfare, in [illegible] July 10, 1973.

primarily safety and health criteria. The facilities are eligible to receive subsidies from the Department of Public Welfare but not the Department of Education. Private licensed schools operate under the aegis of the Department of Education, which requires that they meet only the most minimal educational standards.

These schools are eligible for state aid when they provide particular children with services they cannot get through their local school system or intermediate unit, and they are approved by the Department of Education.[108] Under an agreement between the Departments of Education and Welfare, *P.A.R.C.* implementation in both types of institutions was to be supervised by the Department of Education, with the Department of Welfare continuing to make its financial contributions toward the maintenance of children in private licensed facilities.[109] The difficulties with this arrangement became clear at Allegheny Valley School, a Pittsburgh-area institution which is both a state licensed facility and a private licensed school catering to severely and profoundly retarded children. Because of the school's apparent failure to carry out *COMPILE*, the Masters ordered the Pittsburgh school system to evaluate both the school and its children.[110] At the July 10, 1973 Masters Hearing, Dr. Ruth Scott, the Director of Programs for Exceptional Children in the Pittsburgh school district, reported that her evaluation team had found the school "totally unacceptable" under state public education standards for special education classes. The team also found that the school was misleading its clients by falsely representing many of its staff members to be various kinds of professionals. According to Dr. Scott, the administration of Allegheny Valley School, when confronted with these findings, did not agree to change its practices. Instead, it persuaded parents to fight for the school by demanding individual due process hearings for each child on the ground that the school district cannot provide for the child's medical needs. The school's physician is willing to back these claims, and the parents have threatened to sue should their children be required to return to the public school.[111]

Deputy Attorney General Lawrence Selkowitz, who handles

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[108] Interview, *supra* note 105; Presentation of Dr. Ruth Scott, Masters Hearing, July 10, 1973.

[109] STATE DEP'T OF EDUC., SCHOOL ADMINISTRATORS MEMO 535 (Aug. 9, 1972). Despite this agreement, the status of children in the state schools and hospitals remained so ambiguous that the Masters found it necessary to order both departments to make sure the children were evaluated and given appropriate instruction. Second Report, *supra* note 76, at 2-3.

[110] Presentation of Jack Hagele, Masters Hearing, July 10, 1973.

[111] Dr. Ruth Scott, Report on the Allegheny Valley School, July 10, 1973 (on file at REO in Harrisburg, Pa.).

P.A.R.C. matters, is pessimistic about adequately regulating either private licensed facilities or private licensed schools without changing the licensing standards.[112] This is precisely what PARC wanted when it asked through its lawyer, Jack Hagele, that the standards resulting from the consent decree be incorporated into both agencies' licensing policy.[113] Since other private schools, private licensed facilities, and private schools for the retarded exist to serve a variety of needs not being met by the state, a move in this direction could engender strong political resistance.

PARC officials and state administrators suspect that some rural districts have not provided any educational placements for handicapped children. Their attention has been so focused on monitoring the quantitative aspects of *COMPILE* and *COMPET*, however, that only the most flagrant violations have been brought to the attention of the Masters. For example, when *COMPILE* was first published, an ambiguity in its wording enabled several administrators from districts with very limited resources to interpret it as permitting schools to exclude profoundly retarded, multiply-handicapped youngsters, an interpretation in direct violation of both the letter and spirit of the consent agreement. While this kind of problem is easily clarified,[114] only local consumer groups such as PARC can guarantee that such episodes do not recur. A more difficult problem arises when local school boards directly resist implementation in the name of politically popular economy drives. Unless careful monitoring takes place, districts without strong consumer groups are likely to neglect or evade the agreement when it suits them.

Even when state agencies, PARC officials, and local special educators have worked together, they have encountered resistance from other educators. The problems created by the manner in which "normal" people perceive retarded children illustrate the difficulties of trying to alter the marginal status of these children through judicial reform. For example, at a spring 1973 Masters Hearing, the parent of a retarded child complained that the local educators in charge of vocational/technical training reject retarded children because "they aren't ready." When Master Goldstein suggested that the local PARC chapter or local task force[115] fight for a modified program to fit the children, the parent replied: "They tell you to go screw yourself."[116] This attitude is held by many vocational educators. The Bureau of Vocational Education has stated that no child with an I.Q. less than 105 would be accepted in vocational/technical schools. Many vocational schools have not even applied for federal funding available to provide handicapped children with vocational training.[117] A few programs have been developed to deal with the vocational/technical problem. Intermediate Unit 19[118] has begun a pre-vocational/technical work-study program for 20 twelve to fifteen-year-olds, in order to get them ready for (and make them acceptable to) the regular vocational program. The project may be laudable, but the fact that it is housed in a previously-closed school suggests both its marginal status and the tenacity of conventional attitudes.[119]

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[112] Presentation of Larry Selkowitz, Masters Hearing, July 10, 1973.

[113] Presentation of Jack Hagele, Masters Hearing, July 10, 1973.

[114] The Masters issued a clarification in their First Report, *supra* note 73, at 3-4.

[115] Local task forces were established by COMPILE and were believed by PARC officials to hold the key to monitoring implementation at the local level. See text accompanying notes 131-34 *infra*.

The implementation picture is not wholly bleak. In innovative districts, new educational offerings have appeared, and there is evidence of increased interdistrict cooperation. In one Philadelphia-area district where prior to *P.A.R.C.* there were only classes for educable and trainable retardates, there are now two resource rooms to provide special support for otherwise mainstreamed educable elementary children, a work study program for senior high school educables, itinerant teachers for the homebound, and a program for multiply handicapped children at a neighboring private institution. There has been a similar burgeoning of programs in two of the other four districts studied. Reports from other areas of the state suggest that these developments may not be uncommon. Even in less innovative districts, talented and strong-willed special educators have occasionally been able to use *P.A.R.C.* as a lever to force the introduction of new education opportunities. In one such system, a fifteen-year-old who had been misclassified by the school spent his entire school career in classes for the retarded. The psychologist, the student and his parent all felt that he would be hopelessly behind if he were placed directly into the tenth grade, but the district was reluctant to invent another alternative. The psychologist worked with the boy and his parents and developed a sensible program involving a day divided between regular classwork and vocational preparation. With the psychologist's active support, the parents then used a due process hearing to persuade the district to provide such a program for their son. The *P.A.R.C.* agreement also seems to have fostered a movement toward greater regional cooperation to solve problems relating to transportation, supervision of special education classes, and coordination of services among districts.[120]

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[116] Masters Hearing, June 12, 1973.

[117] Presentation of Joseph Lantzer, Masters Hearing, June 12, 1973.

[118] Pennsylvania's 505 school districts are grouped into 29 intermediate units which disburse state revenue and provide resources and services that single districts by themselves often could not afford. Their chief executive officers are called Intermediate Unit Directors.

[119] Presentation of I.U. 19 representative, Masters Hearing, June 12, 1973.

2. *Monitoring Mechanisms*

Most of Pennsylvania's school districts, while in compliance with the letter of the consent agreement, have not fully reckoned with the organizational implications of implementing a decree which requires the public education of a wholly new class of students. In the absence of some prodding by PARC, the court-appointed Master, or the State Department of Education that reckoning and reexamination is unlikely to take place. Anticipating this, the court and PARC officials, in cooperation with the state agencies, developed four monitoring mechanisms: the Masters, the Right to Education Office, the local task forces, and the due process hearings.

a. *The Masters*

The court appointed two Masters to oversee implementation of the decree. Their responsibilities were broad: they were charged with approving state proposals for the identification, evaluation, and placement of children who had been excluded from school; they heard complaints concerning nonimplementation; and they could order people to testify at hearings. They could press for preliminary judicial directives and for contempt action against officials who do not comply with the decree.[121]

During their first year the Masters operated as "guideline setters and dispute adjudicators," sometimes assuming the role of mediators, sometimes acting more forcefully as arbitrators.[122] When the court extended the term of the Masters in October 1972 to October 1973, it required them to submit monthly reports and to attach any proposed orders which they deemed necessary to remedy noncompliance.[123] This seemed to indicate the court's willingness to be more explicit in its support of the Masters. However, for several reasons, the Masters' authority has not been fully effective. First, the court has not responded to Masters' requests. After receiving their new mandate, the Masters filed two monthly reports. In these, they suggested that the court issue four orders pertaining to the failure of the Department of Public Welfare to carry out *COMPILE* and *COMPET*, the failure of Pittsburgh to carry out its door-to-door census, the slowness of the attorney general in developing appellate procedures, and the need for the Department of

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120. Interview, *supra* note 86.

121. 343 F. Supp. at 314-15.

122. Interviews with Dennis Haggerty, *supra* note 104, and Dr. Herbert Goldstein, *supra* note 103.

123. Order (filed June 15, 1973), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972).

Education to take responsibility for private licensed facilities. By July 1973, the court had acted on none of these.[124]

Why the court failed to act is not clear. While it was responsive to PARC's motions seeking remedies for noncompliance in Philadelphia,[125] actions on motions from PARC are the only ones the court has taken since the issuance of the final decree in May 1972. The court may have simply chosen not to take an activist stance, leaving the issue with the parties. On the other hand, the Masters may have given up too soon. Since March 1973, they have filed none of the required monthly reports. Whatever the reasons, the court's failure to back the Masters has limited their effectiveness.

Another limitation on the Masters' effectiveness may have been that both had full-time jobs; their court assignment under the *P.A.R.C.* agreement was an added responsibility. Dr. Goldstein is an internationally known expert on curriculum designed for retarded children whose work carries him around the country and often overseas. Because of these extensive commitments, he was forced to miss several of the Masters' hearings. Besides his law practice, Mr. Haggerty's interest and experience in the field of legal aspects of mental retardation have involved him in a host of outside activities including work for the President's Committee on Mental Retardation. As a result, the time he could devote to his role as Master also has been quite limited. Compounding this problem, the limited duration of the Masters' tenure allowed stubborn school districts simply to postpone any action until after the Masters departed. A final limiting factor was the state's failure to provide the Masters with strong financial support. As a result, they were obliged to depend on the Right to Education Office to fulfill their staff requirements; the State Special Education Bureau was of limited help.

The Masters relied heavily on PARC, which placed many of the discussion items on the Masters' agenda, and used the sessions to question state and local officials about educational practices. The sessions thus provided PARC with a lever to apply public pressure and set in motion administrative action. The Masters Hearings were devoted almost entirely to procedural and quantitative matters, with very few agenda items touching on the quality of new programs. In part, this focus represented a strategy, carefully thought out by PARC, designed to make sure that the Masters created sufficient structure to ensure continued implementation of the reforms once their term expires. In part, too, it might simply indicate the difficulty in dealing with a concept as vague as "appropriate education." The stress on procedures may also reflect what Master Herbert Goldstein believes to be the difficulties of sustaining consumer pressure at the local level once the primary motivating factor—in this case, the presence of retarded children in the home or in non-responsive and sometimes highly expensive institutions—is removed.[126]

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[124] Presentation of Dr. Ruth Scott, presented orally, Masters Hearing, July 10, 1973 (report to the Masters on the status of the Pittsburgh census).

[125] Order (filed Apr., 1973), *P.A.R.C.*, 343 F. Supp. 279 (E.D. Pa. 1972).

Even with all the limitations of their role, it would be a mistake to discount the importance of the Masters. They provided a readily accessible forum in which PARC was able to raise questions and bring complaints. More important perhaps, it was a forum clothed in the dignity of a federal court having the power to require the appearance of representatives of key state agencies. This aura of power has spurred most of the districts in the state into at least the semblance of compliance. School administrators were awed by the Masters, sometimes working weeks to prepare a written report in anticipation of being called to testify.[127] It is difficult to assess the impact of this symbolic extension of the court, but it is clear that a remarkable degree of interagency cooperation was achieved because of it.

The Masters have made substantive contributions beyond those resulting from their perceived power. Where the court did not adopt their suggested orders, the Masters nevertheless achieved their ends by prodding and persuading the various non-complying parties. They also kept some matters out of court by successfully mediating disputes.[128] By bringing together interested parties from all over the state for hearings and special sessions, the Masters educated people to the meaning of the decree and to the ideas—such as the educability of all children—underlying it. Finally, they not only supervised the implementation of *COMPILE* and *COMPET*, but saw to it that *COMPET* will be rewritten on the basis of the 1972-73 experience. Thus, while the Masters were constrained by the way their role was structured, without them *P.A.R.C.* implementation would have been even more chaotic and disorganized than it has been.

b. The Right to Education Office

When Governor Shapp established the Right to Education Office shortly after the consent agreement was issued, PARC strategists saw it, along with the due process hearings and the local task forces, as one of three keys to successful implementation. The Office was given the responsibility of overseeing implementation of the consent agreement. It was to develop a plan to identify, evaluate, and educate retarded children; monitor implementation; gather data and oversee the due process hearings, including accepting requests for such hearings, assigning officers, and maintaining records. Finally, it was to serve as a staff for the Masters.

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[126] Interview, *supra* note 103.

[127] On one occasion, a group of intermediate unit directors, experienced at facing public situations, were overheard in the men's room before a Masters Hearing discussing who might have to "go first." This fear is all the more ironic given the relaxed and relatively informal way in which Dennis Haggerty ran the hearings.

[128] See text accompanying note 101 *supra*.

As the agent of the State Department of Education, the Right to Education Office was in the position to develop standards, establish program guidelines in terms of content, staffing patterns, in-service training and the like, and evaluate outcomes through careful monitoring. To do this, it gathered a staff of twelve: a director and business manager (both on loan from the Department of Education), an in-service consultant (on loan from the Department of Public Welfare), four area coordinators, and five secretaries (funded by a one-year, renewable federal grant). While the size of the Right to Education Office, exceeding that of the Bureau of Special Education, suggests the strong commitment of the state to implement the *P.A.R.C.* agreement,[129] the Office's temporary nature and precarious funding have proven to be serious roadblocks to full effectiveness. Because officials attuned to the politics of state bureaucracy perceive Joseph Lantzer, the Right to Education Office's Director, as a once and future employee of the Bureau of Special Education, his authority has been undermined from the outset. Perhaps more important, instead of being able to operate as a free and independent regulatory agency, the Right to Education Office has had to function essentially as the arm of a typically politicized state bureau. As a result, the Office has moved cautiously on such sensitive questions of compliance as the resistance of the Philadelphia School District.

Despite these organizational problems, the Right to Education Office staff has received high marks from both PARC officials and the Masters for its dedication to the principles of the consent agreement and for its efforts to ensure implementation.[130] Furthermore, all agree that the Right to Education Office could be highly effective if it were made a permanent and independent agency. PARC views this as one of its major objectives as it prepares for a future without the Masters.

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[129] In fact, this was cited as evidence of the commitment of state agencies by the Masters in their First Report, *supra* note 73. That the Right to Education Office was the only state bureau, other than the emergency office for flood relief, kept open during the terrible 1972 spring flooding in Pennsylvania provides further indication of the amount of state backing the consent agreement received.

[130] In separate interviews with Peter Kuriloff, this kind of appreciation was expressed by Marlene Snoker, Assistant Director for Administration and Governmental Affairs for PARC, in Harrisburg, June 12, 1973 and Peter Polloni, Executive Director of PARC, in Harrisburg, Jan. 15, 1973, as well as by Masters Haggerty in Philadelphia, May 8, 1973, and Goldstein, in Philadelphia, June 11, 1973.

c. *The Local Task Forces*

COMPILE required the establishment of local task forces to help school districts carry out evaluation and planning. They were to be organized by the Intermediate Unit Executive Directors, who were to select task force members from representatives of consumer groups and the administrators of the local school districts, county mental health and mental retardation centers, and private agencies.[131] It was PARC's hope that the task forces would provide a means for consumers to be heard where it counted most—at the individual program level. PARC officials now consider this aspiration even more important since the due process hearings have not proven as effective in promoting appropriate educational placement as originally hoped.[132]

The operation of the local task forces has been hampered by serious flaws in their original conception. While specifying their responsibility, *COMPILE* indicated neither the source of their power nor the scope of their authority. Their membership is selected by, headed by, and reports to the Intermediate Unit Director. Since he is not required to follow their recommendations, their power is merely advisory. Furthermore, Intermediate Unit Directors have no authority over District Administrators. For that reason, even if the local task forces had real authority, it is unlikely that it would extend beyond intermediate unit programs to those established by individual districts.

With the October expiration of the Masters' term, many gaps still remain between the concept and implementation of the consent agreement. Unless the local task forces are empowered to monitor implementation, many apparent gains will be lost. Recognizing this, PARC appealed to the Masters to clarify the local task forces' responsibility and authority. At the January 1973 Masters' Hearing the Director of the Right to Education Office was asked to respond. He reported that the idea of giving the local task forces real authority was meeting with bureaucratic resistance. He described how he had recently been asked by the State Task Force[133] to draft a policy statement on the subject.

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[131] COMPILE, *supra* note 70, at 31.

[132] J. Schmidt, *To Local Review Teams (Draft)*, June 12, 1973 (on file with Peter Kuriloff).

[133] The State Task Force consists of the Director of the Bureau of Special Education, the Commissioner of Mental Retardation, a representative of the Governor's Office, and representatives of consumer/citizens groups. It has the responsibility of communicating with and soliciting the cooperation of all governmental agencies and state level consumer groups about the implementation of COMPERE and COMPILE. COMPILE, *supra* note 70, at 4.

Though he had proposed giving substantive power to local task forces, the draft finally approved by the State Task Force was considerably watered down. The Masters were not able to obtain agreement on a more authoritative role for the local task forces before their final hearing, but PARC continues to pursue the matter, threatening judicial action to force increasing the task forces' power. Unless that happens, the parents of retarded children may find themselves without any vehicle for monitoring the quality of local educational programs.

d. Due Process Hearings

Those who framed the *P.A.R.C.* agreement recognized both the importance and the difficulty of securing structural change. They hoped that the guarantee of a due process hearing would promote more carefully considered educational placements for special children and, ultimately, general reexamination of special programs. Thomas K. Gilhool expressed these aspirations in a memorandum to PARC:

> For the first time in American education, a mechanism is created to assure that the educational program fits the child. The mere fact of a hearing opportunity . . . will of course keep all the field professionals on their toes. There is a new instrument of accountability. . . . The right to a hearing creates an extraordinary forum for parents and their associations to express themselves, raise issues, enforce rights, get things done, and to organize. . . . The hearing is a forum which should transform the parents' movement . . . . And it should transform education.[134]

The formal hearing requirements assure parents of a retarded child the right to a hearing upon initial school placement, after any program change, and after every two years of special class assignment. Prior to the hearing, parents may examine the school records on which the recommendation is based. They may retain counsel or professional assistance. During the hearing, they have the right to have the hearing either closed or open to the public.[135] They are entitled to summon and question all the school personnel involved in the decision.

PARC and state education officials moved quickly to set up the hearing mechanism. Sixty-one hearing officers, endorsed both by PARC and the state, were appointed. In May 1972, a first group was given a quick training course by Tom Gilhool and Ed Weintraub, a Pennsylvania Deputy Attorney General, which familiarized them both with the decree and with the hearing procedures. But following an agreement between counsel, training was suspended after this first session. As a result, only thirteen officers had been trained and were working by August. This caused a serious backlog of cases, and placed a heavy burden on the trained hearing officers, who are all employed elsewhere full time.[136] The Right to Education Office took steps to remedy this problem, however, and by the fall there were 34 working officers, drawn from positions in public special education and from colleges and universities. As of April 1973, 255 hearings had been applied for across the state; 47 had been held, and decisions reached in 43. Sixty-nine of the requested hearings had been cancelled. In the 25 hearings open to the public, 13 decisions upheld the school's recommendation, while the balance were decided in favor of the parents—a result which does not necessarily mean the children received a more appropriate education.[137] Parents represented by counsel were significantly more likely to win a favorable ruling.[138]

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[134] RIGHT TO EDUCATION, *supra* note 57, at 58.

[135] 343 F. Supp. at 303-06.

Although the *P.A.R.C.* decree sets forth rudimentary substantive guidelines for the conduct of the hearings—for example, the presumption that regular class placement is preferable to assignment to a special class—the individual hearing officer, who is usually a special educator, decides how the hearing is to function. Some of the hearing officers are still confused about their role. PARC officials assert that some hearing officers have turned away cases on the ground that transportation issues are beyond the scope of the due process hearings, others on the grounds that appropriate programming is unreviewable.[139] Where proper hearings have been held, some PARC spokesmen have noted that not all avenues of search have been undertaken to assist in proper placement or appropriate programming, even though it is the officers' duty to order such a search if they find it necessary.[140] Finally, PARC officials claim that the presence of lawyers has created problems at some hearings. Unlike educators, lawyers tend to focus more on the procedural than on the substantive questions.[141]

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[136] First Report, supra note 75, at [illegible].

[137] Many [illegible] argued that the less adversarial the hearing, the [illegible] a good plan for the child. This argument is developed in part IV of this Article.

[138] This was determined by using the X^2 technique on the following table:

	Parent "Wins"	Parent "Loses"
Lawyer present	9	3
Lawyer not present	4	9

$X^2 = 4.29$
$p < .05$

Since the cell values are so small, this finding should be considered as merely suggestive.

[139] Interview of Peter Kuriloff with Jack Hardy, in Philadelphia, July 10, 1973.

[140] [illegible] Schmidt, supra note 135, at 2.

[141] *Id.* This complaint may stem from a misunderstanding of lawyers' methods during the hearings, rather than from a failure on the part of the lawyers to grasp the substantive issues.

No provision has been made to encourage hearing officers to read each other's decisions. No one—neither other hearing officers, nor the lawyers, nor PARC officials—has had access to the hearing transcripts or the written decisions in closed hearings. A preliminary canvass of the decisions suggests that an argument that may prevail before one officer will be rejected by another; and, since there have been no decided appeals (as of this date) there exists no system of precedent to guide the decision-maker. The best that the parties to a dispute can hope for under such circumstances is what David Matza has termed "individual justice."[142] The implementation of individual justice poses problems both for the school system and for the parents. The parent challenging a particular placement has no way of knowing what sort of proof will be appropriate, what evidence is to be credited, or what procedural burdens (if any) he must surmount. School officials are similarly confused.

There is, of course, a standard—"appropriate education"—which in theory governs the inquiry.[143] But that standard is so broad and elastic that the hearing officer cannot apply it in routine fashion. Instead, he must choose among versions of that standard, adopting criteria that necessarily vary from hearing to hearing, and from hearing officer to hearing officer. The process by which decisions are reached seems similar in many respects to that of the juvenile justice system, although the ostensible goals of the two types of hearings differ. In both situations, "hardly anyone and least of all the recipients of judgment who have some special interests in these matters, is at all sure what combinations of the widely inclusive relevant criteria yield what sort of specific dispositions."[144]

The availability of hearings has been a useful political tool, both for parents and school officials. Officials have threatened parents with a hearing as a means of obtaining acceptance of the recommended placement; for some parents, concern about publicity, discomfiture with adversariness, and the quite real possibility of losing come perilously close to coercion. Many of the same factors operate to the advantage of more activist or recalcitrant parents;[145] the cost of the hearing—in time, although not in dollars—may lead districts to acquiesce in the parents' wishes about placement.[146]

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[142] D. MATZA, DELINQUENCY AND DRIFT 111 (1964).

[143] Hearing officers in fact make choices, rather than resolving differences, much as an arbitrator might. But the conduct of the hearings generally has been informal, a style associated with mediation. *See* Fuller, *Adjudication and the Rule of Law*, 1960 PROCEEDINGS OF THE AM. SOC'Y OF INT'L L. 1.

[144] D. MATZA, *supra* note 142, at 115.

[145] This is the case in the Allegheny Valley School situation, in which parents threaten to use hearings as weapons to keep the school district from removing their children from Allegheny Valley. R. Scott, *supra* note 111.

Hearings can also have serious unexpected consequences. In one district in the north-eastern part of the state, parties to the hearings became so antagonistic that the teachers present became extremely upset; subsequently, teachers throughout the district referred no more children for evaluation to the intermediate unit. This episode suggests that teachers may not understand the purposes of the due process hearings. More importantly, it means that hearings can be conducted in a manner that not only defeats the spirit of the decree, but also keeps children needing other kinds of help from receiving it. It is another example of the complex dynamics which must be taken into account in order successfully to implement the reform contemplated in *P.A.R.C.*

In two respects the formal hearing procedures have been modified since the *P.A.R.C.* decree. First, in order to resolve essentially technical disputes—for example, what transportation is to be provided to get a particular child to his special program—the Department of Education has introduced an informal prehearing session. Second, both PARC and the state have adopted a mechanism for appealing from the hearing decision. Such disputes are heard first by the Secretary of Education, whose rulings may then be appealed to the commonwealth court.[147]

3. *Recapitulation*

More than a year after the court approved the *P.A.R.C.* consent decree, the evidence tells an uneven tale. Pennsylvania has been able to identify some 7,400 previously excluded children, a feat which can be credited both to strong official support and to the persistent efforts of an active statewide parents group. But with respect to the more basic educational and organizational questions—the evaluation and "appropriate" placement of exceptional children—the results are far less clear. The organization and nature of speech educational services, although expanded, remains generally the same. As Master Herbert Goldstein notes:

> Unfortunately, the state has not tackled its substantive issues with the same zeal and flamboyance as the procedural questions. The results—thus far—are an array of facades (finding, testing, placing, etc.). . . . But there isn't much new educationally in Pennsylvania, as an outcome of the case. . . . If the state educational

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[146] Pennsylvania officials estimate the dollar costs of each hearing at $500—about half the amount spent on the schooling of a typical Pennsylvania child each year. The state, and not the school district, bears this cost. Interview of Peter Kuriloff with William Orhtman, Chief of Bureau of Special Education, in Harrisburg, Jan. 9, 1973.

[147] Masters Hearing, July 10, 1973.

people do not change their ways and begin aggressively to re-shape and originate, facades are all that Pennsylvania will have.[118]

APPENDIX II

SPECIAL EDUCATION SURVEY: PSYCHOLOGIST'S FORM

GENERAL INSTRUCTIONS FOR COMPLETION OF THE QUESTIONNAIRE

1. Your school district or intermediate unit has been selected to participate in a state wide survey of school personnel. The survey is designed to elicit information about changes in the provision of special education services since the PARC consent agreement in the Spring of 1972.

2. The questionnaire contains general questions that everyone answers and a section that is specific to your particular job. You will find that the questionnaire can be completed rather quickly.

3. Using the number two pencil provided (or any other #2 pencil), please place your answers to the questionnaire on the red IBM answer sheet. Please mark your answers to each question only on the answer sheet and not in the questionnaire booklet.

4. Please check only one response to each question. If you have difficulty in answering any question, please give your best estimate or appraisal.

5. Please do not place any extraneous marks on the answer sheet or fold it, as this would interfere with the IBM tabulation of data.

6. The precoding on the answer sheets includes a respondent number, a school district or intermediate unit code, and general demographic information. This is to assist in the computation of the data by the IBM system. Since our concern is with aggregate data only, all responses will remain strictly anonymous.

7. After completing the questionnaire, please place the answer sheet in the pre-addressed and stamped envelope, and return it to us. Do not return the questionnaire booklet. If you wish a report of survey findings, please write your name and address on the return envelope, and we will send it to you.

INSTRUCTIONS:

Questions number 1 - 13 deal with your job and the school district or intermediate unit in which you work. Please respond to each of the questions by selecting from the following alternatives:

A. Strongly agree

B. Mildly agree

C. Uncertain

D. Mildly disagree

E. Strongly disagree

1. When novel situations arise I attempt to take charge and show other people how to solve problems creatively.

2. Whether I am right or wrong it is important that my supervisors support me when I am criticized by outside people.

3. In solving problems that emerge on the job, I prefer to be left to my own devices, rather than closely supervised.

4. In order to do a professional job in my role, I insist upon freedom to bend specific rules and procedures when necessary.

5. Experience on the job is the most important part of my professional competency.

6. In novel situations I check with a supervisor before taking any direct action.

7. Much of my professional time is spent in the attempt to develop new ideas and procedures for use on the job.

8. I make myself available to students and parents on a regular basis even if it involves some sacrifice of my own time.

9. In almost every decision, my first concern is to cooperate with my colleagues and maintain a good working relationship.

10. The last time a new professional came into the system I helped that person become acclimated to the way things are done.

11. I invite parents to discuss the problems of their child whenever necessary.

12. Each child must adapt so that the schools can maintain the educational and social levels they have had in the past.

13. I would be willing to leave my current job for a better position in the same school system, even if it meant that my professional responsibilities changed.

INSTRUCTIONS:

Questions #14 - 25 deal with the procedure that is followed in providing services for exceptional children. Please respond by selecting from among the following alternatives:

A. There is a formal set of rules and regulations that must be followed in every detail.

B. There are flexible guidelines and a general procedure that is followed.

C. No specific guidelines are issued, but an informal procedure has evolved.

D. Individual decisions are made on a case by case basis.

E. Don't know

14. The curriculum and materials to be used in special education classrooms

15. Evaluation procedures by which the quality of special education programs can be assessed

16. Referral procedures to be used in recommending a child for counseling services

17. Referral procedures by which teachers, counselors, and/or principals can request psychological services for a child

18. The testing procedures to be used by counselors or psychologists with students referred for differing problems

19. The issuance of educational prescriptions by counselors or school psychologists that state the results of psychological testing, and recommend an appropriate program for a child

20. Procedures by which school officials can secure remedial services for a child assigned to special education, such as speech therapy, psychiatric services, etc.

21. Reevaluation procedures for a child previously assigned to special education

22. Procedures for securing parental permission for a child to be tested by a counselor or school psychologist

23. Procedures by which a child previously assigned to special education may be returned to the regular classroom for some or all of his educational program (sometimes called "mainstreaming")

24. Procedures for securing parental consent when assigning a child to special education

25. Teaching methods used in special education classrooms

INSTRUCTIONS:

In this section, questions #26 - 37 deal with the abilities of retarded children. Choosing from the alternatives listed below, please indicate the lowest level child that you believe could fit each descriptive statement.

A. Only a child of normal intelligence

B. An educable mentally retarded child

C. A trainable mentally retarded child

D. A severely mentally retarded child

26. None of these children have problems so severe that they need be denied the benefit of a public education.

27. Most of these children can attend regular schools if they are provided with special instructional programs.

28. These children should attend classes with normal children to the extent possible.

29. With sufficient appropriate help these children should be able to read at a primer level, and write simple words.

30. These children should be able to marry and bear children if they want to.

31. With sufficient appropriate help most of these children should be able to achieve at their age and grade level academically.

32. With sufficient appropriate help these children should be able to function in a sheltered workshop.

33. Most of these children should be able to master adequate grooming skills, self-feeding, and table manners.

34. These children can learn to master frustration and complete assigned tasks independently.

35. With sufficient appropriate help, these children should be able to master concepts such as numerosity.

36. With sufficient appropriate help most of these children should be able to achieve vocational independence.

37. Outside the classroom most of these children are indistinguishable from normal children.

INSTRUCTIONS:

In questions #38 - 57 please indicate when each of the following classes and remedial services first became available to exceptional children through the school district, intermediate unit, or other public and private agencies, by choosing from among the following alternatives:

A. This program or service has been available in the school district or intermediate unit for three years or longer.

B. This program or service has been available in the school district or intermediate unit for less than three years.

C. This service is available through public or private agencies other than the public schools.

D. This program or service is not available to exceptional children.

E. I do not know if this program or service is available to exceptional children.

38. Educable mentally retarded classes

39. Trainable mentally retarded classes

40. Severely mentally retarded program

41. Profoundly mentally retarded program

42. Classes for brain injured or learning disabled children

43. Classes for emotionally disturbed children

44. Classes for physically handicapped children (may include blind and deaf)

45. Classes for multiply handicapped children (may include developmental disabilities)

46. Home bound instruction

47. Day care centers for exceptional children

48. Family counseling

49. Medical evaluation and services

50. Neurological evaluation and services

51. Psychiatric evaluation and services

52. Physical therapy

53. Speech therapy

54. Resource rooms

55. Vocational counseling and training

56. Foster home placement

57. Institutionalization

INSTRUCTIONS:

In this section questions #58 - 84 deal with recent changes in the provision of special education services in the public schools. Please respond by selecting from among the following alternatives:

A. Indicates a practice that has existed in the public schools for three years or more

B. Indicates a practice that was begun in the public schools only in the last three years

C. Indicates a practice that has never been done in the public schools

D. Indicates a practice that is done in the public schools, but I do not know when it began

E. I do not know if this practice is done in the public schools.

58. Children who are referred because of discipline problems are usually tested.

59. Children who are referred because of sight, speech, or hearing problems are usually tested.

A. Indicates a practice that has existed in the public schools for three years or more

B. Indicates a practice that was begun in the public schools only in the last three years

C. Indicates a practice that has never been done in the public schools

D. Indicates a practice that is done in the public schools, but I do not know when it began

E. I do not know if this practice is done in the public schools.

60. Children who pose discipline problems in the classroom, and exhibit a borderline intelligence profile (full scale score 76-84) are likely to be assigned to special education.

61. Those who recommend specific programs for exceptional children are likely to visit a program and talk with its staff before making a recommendation.

62. Psychologists and/or counselors check to be sure that an exceptional child will receive the remedial services that he needs (i.e. speech therapy, psychiatric services, etc.) in a given program.

63. Each program in special education contains an evaluation component by which its success or failure can be objectively established.

64. Educable mentally retarded children share some academic subjects with slow normal children, such as remedial reading and math.

65. If parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though the child is often disruptive in class.

66. New curricula is being developed for use with exceptional children in the school district or intermediate unit.

67. If the parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though he falls within the legal limits for placement in special education.

68. Parents of exceptional children are encouraged to become involved in classroom activities.

69. Behavioral goals are set for each child assigned to special education and curricula is developed to facilitate their implementation.

70. A specific prescription describing the child's problems and his educational needs is written following each reevaluation of a child assigned to special education.

A. Indicates a practice that has existed in the public schools for three years or more

B. Indicates a practice that was begun in the public schools only in the last three years

C. Indicates a practice that has never been done in the public schools

D. Indicates a practice that is done in the public schools, but I do not know when it began

E. I do not know if this practice is done in the public schools.

71. Following testing, a conference is arranged between parents and school officials, in which the results and placement recommendations are disclosed.

72. Following testing the parents receive a notice describing the school's recommendations for their child, and their legal option to request a hearing if they disagree.

73. If parents request a hearing, school officials attempt to meet with the parents, explain their recommendations, and where possible negotiate an appropriate placement.

74. Standardized forms are completed following each testing session, to insure that a broad evaluation has been conducted.

75. A child assigned to special education will have his progress monitored by a psychologist and/or a counselor

76. Children who are referred because of emotional problems and exhibit a borderline intelligence profile (full scale IQ 76-84) are likely to be assigned to special education.

77. Psychologists and/or counselors check to be sure that a program has stated behavior goals and a curriculum to meet these goals before recommending it to school officials and parents.

78. Educable mentally retarded children share some vocational classes with normal children.

79. Educable retarded children share some extracurricular activities (sports, field trips, etc.) with normal children.

80. School officials meet with the parents of a child who is being reevaluated to discover their wishes, explain the reevaluation procedure, explain school programs, and make placement recommendations.

81. If the parents protest vehemently enough their child will likely be allowed to continue in the normal classroom, even though some believe he has emotional problems.

A. Indicates a practice that has existed in the public schools for three years or more

B. Indicates a practice that was begun in the public schools only in the last three years

C. Indicates a practice that has never been done in the public schools

D. Indicates a practice that is done in the public schools, but I do not know when it began

E. I do not know if this practice is done in the public schools.

82. Psychologists, counselors, and/or teachers have established resource rooms in which children in special education and slow normal children can receive the remedial help they need.

83. Staff development programs are run, which address contemporary issues in special education.

84. School officials meet with parents who have requested a hearing, to find out their desires, explain the school's position, and/or attempt to agree upon an appropriate placement for their child.

INSTRUCTIONS:

In this section questions #85 - 96 deal with due process in the provision of special education services. Please respond by selecting from among the following alternatives:

A. The statement is true.

B. The statement is false.

C. Don't know.

85. Where the school provides a program of preschool education retarded children are entitled to a program of equal scope and merit.

86. Before a child is assigned to any special education program parents are notified of their right to a hearing.

87. All children in special education must be reevaluated every three years whether a reevaluation is requested by the parents or not.

88. A child who is disruptive in class can be placed in special education without a hearing.

89. Each time a child in special education is reevaluated he is entitled to another hearing.

90. Parents are notified of their right to call witnesses, cross-examine the school's witnesses, and compel the attendance of any school official at a hearing.

91. A due process hearing is held at a time and place convenient for school administrators, providing the parents are given adequate notice.

92. It is the school's responsibility to inform parents where they can obtain legal aid, medical and diagnostic services, and give them the address of the nearest PARC office, before a hearing.

93. When an appropriate program cannot be provided in the school district or intermediate unit, children may be referred to the Department of Welfare for disposition of their case.

94. When the presence of an exceptional child in the classroom threatens the safety of other children, that child may be removed from public school education, and referred to the Department of Welfare for disposition of the case.

95. If the school presents a program which is certified as being adequate by the state, it has fulfilled its responsibility to the child.

96. Emotionally disturbed, brain injured or learning disabled, and handicapped children are entitled to a hearing before they can be assigned to special education.

(CONTINUED ON NEXT PAGE)

School Psychologist Questionnaire

INSTRUCTIONS:

In questions #97 - 114, please indicate how much emphasis each of the following tasks receives in the performance of your professional role, by choosing from among the following alternatives:

A. This is a part of my role that has received increasing emphasis in the last three years.

B. This is a part of my role that receives approximately the same emphasis today that it received three years ago.

C. This is a part of my role that receives less emphasis today than it did three years ago.

D. This is not a part of my role.

97. Confer with and advise classroom teachers, guidance counselors, and principals with respect to the problems of children in the regular classroom

98. Design a program of special help or remedial services for a child having academic or social difficulties in the regular classroom

99. Work with the teacher, counselor, and/or principal to insure that the program is implemented, evaluated, and revised as necessary to maximize the likelihood of its success.

100. Test children who have been referred by school personnel, outside agencies, or their parents

101. Complete forms following testing that report measures of intelligence, achievement, social maturity and development, emotional development, and perceptual motor skills

102. Write reports describing test results and specifying educational needs for those children tested

103. Visit special programs to determine their suitability for an individual child in need of special education

104. Make specific program recommendations for children tested and found to be in need of special education

105. Confer with parents to report and explain test results, and/or make specific recommendations regarding the placement of their child

106. Follow the progress of a child retained in the regular classroom after testing, providing special services where necessary

107. Follow the progress of a child assigned to special education after testing by providing special services where necessary

108. Reevaluate children who have previously been assigned to special education

109. Secure, plan, or administer remedial services in the special classroom such as speech therapy, physical therapy, medical services, etc.

110. Participate in the development of new programs in special education

111. Participate in the development of new curriculum and special materials to be used in special education programs in the schools

112. Evaluate existing special education programs at the school district or intermediate unit level

113. Supervise or provide special services to special education programs that address the needs of children with certain specific disabilities (i.e. all trainable mentally retarded classes, all brain injured classes, all multiply handicapped classes, etc.)

114. Testify or prepare testimony for a due process hearing involving the appropriate placement of a child

INSTRUCTIONS:

Questions #115 - 124 deal with the process of testing and evaluation. Please indicate under what circumstances you would use each of the following tests by selecting from alternatives A - E listed below:

A. This test is used in nearly all evaluations.

B. This test is used primarily in initial evaluations.

C. This test is used primarily in reevaluating children already assigned to special education.

D. This test is used primarily in special situations.

E. This test is almost never used.

115. Stanford Binet

116. Bender Gestalt

117. WISK

118. Draw a Person

119. Illinois Test of Psycholinguistic Ability

120. Sentence Completion

121. Thematic Aperception

122. Rorschach

123. Wide Range Achievement

124. Vineland Social Maturity

INSTRUCTIONS:

Research has indicated that not all children who fall within the legal range for assignment to special education are actually so placed. In questions #125 - 139, please indicate how important each of the following factors are in forming your final placement recommendation, by selecting from among the following alternatives:

A. This factor is of major importance in forming my recommendation.

B. This factor is of moderate importance in forming my recommendation.

C. This factor is of minor importance in forming my recommendation.

D. This factor is of little or no importance in forming my recommendation.

125. Achievement as measured by school grades

126. Achievement as measured by tests such as WRAT

127. Intelligence Quotient (full scale score)

128. Social maturity and development

129. Emotional stability

130. Perceptual motor development

131. Sex and age

132. Current report of other professionals such as doctors, psychiatrists, speech therapists, etc.

133. Attitude and support of administrative officials in the schools

134. Attitude and support of teaching and counseling staff in the schools

135. Previous school records

136. Availability of needed remedial services in the regular classroom (speech therapy, etc.)

137. Availability of remedial services in the special education classroom

138. Family background, including social class, stability, ability to understand the special needs of their child, the child's effect on other family members, their wishes for their child

139. Content and quality of special education program into which the child might fit (appropriate behavior goals, necessary staffing, necessary resources, presence of an evaluation component, etc.)

INSTRUCTIONS:

Questions #140 - 145 concern the disposition of cases following the testing procedure. Please indicate how often you recommend each of the following dispositions by choosing from alternatives A - E listed below.

A. This is a generally accepted and frequently used practice.

B. Though not a good practice this disposition is often made.

C. This would be an excellent practice, but it is seldom used.

D. This is a practice of questionable nature and is seldom if ever used.

140. Return to the classroom with no recommendation for special services

141. Return to the regular classroom but recommend remedial services to supplement normal classroom activity

142. Recommend special education in the school district or intermediate unit

143. Recommend home bound instruction

144. Recommend certification to attend a private school or facility

145. Recommend certification to the Department of Welfare

INSTRUCTIONS:

In this final section questions #146 - 160 deal with general background characteristics. Please respond by selecting from among the alternatives that follow each question.

146. Sex

A. Male

B. Female

147. Race (optional)

A. White

B. Black

C. Chicano

D. Oriental American

E. Native American

148. Religion (optional)

A. Roman Catholic

B. Amish or Mennonite

C. Protestant

D. Jewish

E. Other

149. Age

A. 20 - 29 years old

B. 30 - 39 years old

C. 40 - 49 years old

D. 50 - 59 years old

E. 60 - 69 years old

150. What is the highest degree that you have received?

A. BA or BS degree (please skip question #152 below)

B. MA or MSEd degree

C. Masters plus thirty credits

D. PhD or EdD degree

151. When did you receive your highest degree?

A. Less than 1 year ago

B. 1 - 3 years ago

C. 4 - 6 years ago

D. 7 - 9 years ago

E. 10 or more years ago

152. What was your area of specialization in graduate school?

A. Non Education curriculum (Liberal Arts or Sciences)

B. Elementary or Secondary Education (teacher's prep)

C. Educational, School, or Counseling Psychology

D. Educational Administration

E. Special Education

INSTRUCTIONS:

Please use the following alternatives to respond to items #153 - 160 indicating how long you have served in each of the following educational positions.

A. Never

B. 1 - 3 years

C. 4 - 6 years

D. 7 - 9 years

E. 10 years or longer

153. Classroom teacher

154. Special Education teacher

155. Guidance Counselor

156. Principal

157. School Psychologist

158. Director, Supervisor or Coordinator of Psychological Services, Pupil Personnel Services, Special Services, or Special Education

159. Assistant Superintendent or Superintendent of Schools

160. How many years have you been employed by the school district or intermediate unit that currently employs you?

APPENDIX III

THE CONTENT AND RELIABILITY OF SCALES 1-11

Scale 1: Schools' Responsiveness to Parental Protest in Placement Decisions

Content

V65. If parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though the child is often disruptive in class.

V67. If the parents protest vehemently enough, their child will likely be allowed to continue in the normal classroom, even though he falls within the legal limits for placement in special education.

V81. If the parents protest vehemently enough their child will likely be allowed to continue in the normal classroom, even though some believe he has emotional problems.

Scale Statistics

N = 178

Mean = 3.34

Variance = .58

S.D. = .76

Inter-Item Correlations

Mean = .49

Minimum = .47

Maximum = .50

Reliability Coefficient

Alpha = .72

Scale 2: Availability of Special Education Programs and Services

Content

V38. Educable mentally retarded classes.

V39. Trainable mentally retarded classes.

V40. Severely mentally retarded program.

V41. Profoundly mentally retarded program.

V42. Classes for brain injured or learning disabled children.

V43. Classes for emotionally disturbed children.

V44. Classes for physically handicapped children (may include blind and deaf).

V45. Classes for multiply handicapped children (may include developmental disabilities).

V46. Home bound instruction.

V47. Day care centers for exceptional children.

V48. Family counseling.

V49. Medical evaluation and services.

V50. Neurological evaluation and services.

V51. Psychiatric evaluation and services.

V52. Physical therapy.

V53. Speech therapy.

V54. Resource rooms.

V55. Vocational counseling and training.

Scale Statistics

N = 178

Mean = 20.71

Variance = 6.19

S.D. = 2.49

Inter-Item Correlations

Mean = .11

Minimum = -.15

Maximum = .60

Reliability Coefficient

Alpha = .70

Scale 3: School Systems' Adherence to the Letter of PARC

Content

V66. New curricula is being developed for use with exceptional children in the school district or intermediate unit.

V69. Behavioral goals are set for each child assigned to special education and curricula is developed to facilitate their implementation.

V70. A specific prescription describing the child's problems and his educational needs is written following each reevaluation of a child assigned to special education.

V71. Following testing, a conference is arranged between parents and school officials, in which the results and placement recommendations are disclosed.

V72. Following testing the parents receive a notice describing the school's recommendations for their child, and their legal option to request a hearing if they disagree.

V73. If parents request a hearing, school officials attempt to meet with the parents, explain their recommendations, and where possible negotiate an appropriate placement.

V74. Standardized forms are completed following each testing session, to insure that a broad evaluation has been conducted.

V80. School officials meet with the parents of a child who is being reevaluated to discover their wishes, explain the reevaluation procedure, explain school programs, and make placement recommendations.

V84. School officials meet with parents who have requested a hearing, to find out their desires, explain the school's position, and/or attempt to agree upon an appropriate placement for their child.

Scale Statistics

N = 178

Mean = 12.66

Variance = 5.65

S.D. = 2.38

Inter-Item Correlations

Mean = .24

Minimum = .05

Maximum = .69

Reliability Coefficient

Alpha = .75

Scale 4: School Systems' Adherence to the Spirit of PARC

Content

V61. Those who recommend specific programs for exceptional children are likely to visit a program and talk with its staff before making a recommendation.

V64. Educable mentally retarded children share some academic subjects with slow normal children, such as remedial reading and math.

V68. Parents of exceptional children are encouraged to become involved in classroom activities.

V77. Psychologists and/or counselors check to be sure that a program has stated behavior goals and a curriculum to meet these goals before recommending it to school officials and parents.

V78. Educable mentally retarded children share some vocational classes with normal children.

V79. Educable retarded children share some extracurricular activities (sports, field trips, etc.) with normal children.

V82. Psychologists, counselors, and/or teachers have established resource rooms in which children in special education and slow normal children can receive the remedial help they need.

V83. Staff development programs are run, which address contemporary issues in special education.

Scale Statistics

N = 178

Mean = 9.34

Variance = 2.51

S.D. = 1.58

Inter-Item Correlations

Mean = .21

Minimum = .08

Maximum = .59

Reliability Coefficient

Alpha = .66

Scale 5: Knowledge of PARC

Content

V85. Where the school provides a program of preschool education retarded children are entitled to a program of equal scope and merit.

V86. Before a child is assigned to any special education program parents are notified of their right to a hearing.

V87. All children in special education must be reevaluated every three years whether a reevaluation is requested by the parents or not.

V88. A child who is disruptive in class can be placed in special education without a hearing.

V89. Each time a child in special education is reevaluated he is entitled to another hearing.

V90. Parents are notified of their right to call witnesses, cross-examine the school's witnesses, and compel the attendance of any school official at a hearing.

V91. A due process hearing is held at a time and place convenient for school administrators, providing the parents are given adequate notice.

V92. It is the school's responsibility to inform parents where they can obtain legal aid, medical and diagnostic services, and give them the address of the nearest PARC office, before a hearing.

V95. If the school presents a program which is certified as being adequate by the state, it has fulfilled its responsibility to the child.

Scale Statistics

N = 178

Mean = 15.40

Variance = 1.79

S.D. = 1.33

Inter-Item Correlations

Mean = .07

Minimum = -.14

Maximum = .38

Reliability Coefficient

Alpha = .38

Scale 6: Importance of Child Oriented Placement Criteria

Content

V125. Achievement as measured by school grades.

V126. Achievement as measured by tests such as WRAT.

V127. Intelligence Quotient (full scale score).

V128. Social maturity and development.

V129. Emotional stability.

V130. Perceptual motor development.

V131. Sex and age.

V132. Current report of other professionals, such as doctors, psychiatrists, speech therapists, etc.

V138. Family background, including social class, stability, ability to understand the special needs of their child, the child's effect on other family members, their wishes for their child.

V139.[a] Content and quality of special education program into which the child might fit (appropriate behavior goals, necessary staffing, necessary resources, presence of an evaluation component, etc.).

Scale Statistics

N = 178

Mean = 28.42

Variance = 10.61

S.D. = 3.26

Inter-Item Correlations

Mean = .15

Minimum = -.08

Maximum = .51

Reliability Coefficient

Alpha = .58

---

[a] This item was inadvertantly excluded from the reliability analysis for Scale 6. Consequently, all statistics for it were calculated on the basis of nine items.

Scale 7: Importance of System Oriented Placement Criteria

Content

V133. Attitude and support of administrative officials in the schools.

V134. Attitude and support of teaching and counseling staff in the schools.

V135. Previous school records.

V136. Availability of needed remedial services in the regular classroom (speech therapy, etc.).

V137. Availability of remedial services in the special education classroom.

Scale Statistics

N = 178

Mean = 14.61

Variance = 7.48

S.D. = 2.74

Inter-Item Correlations

Mean = .32

Minimum = .12

Maximum = .74

Reliability Coefficient

Alpha = .71

Scale 8: Overall Role Change

Content

V97. Confer with and advise classroom teachers, guidance counselors, and principals with respect to the problems of children in the regular classroom.

V98. Design a program of special help or remedial services for a child having academic or social difficulties in the regular classroom.

V99. Work with the teacher, counselor, and/or principal to insure that the program is implemented, evaluated, and revised as necessary to maximize the likelihood of its success.

V100. Test children who have been referred by school personnel, outside agencies, or their parents.

V101. Complete forms following testing that report measures of intelligence, achievement, social maturity and development, emotional development, and perceptual motor skills.

V102. Write reports describing test results and specifying educational needs for those children tested.

V103. Visit special programs to determine their suitability for an individual child in need of special education.

V104. Make specific program recommendations for children tested and found to be in need of special education.

V105. Confer with parents to report and explain test results, and/or make specific recommendations regarding the placement of their child.

V106. Follow the progress of a child retained in the regular classroom after testing, providing special services where necessary.

V107. Follow the progress of a child assigned to special education after testing by providing special services where necessary.

V108. Reevaluate children who have previously been assigned to special education.

V109. Secure, plan, or administer remedial services in the special classroom such as speech therapy, physical therapy, medical services, etc.

V110. Participate in the development of new programs in special education.

V112. Evaluate existing special education programs at the school district or intermediate unit level.

V113. Supervise or provide special services to special education programs that address the needs of children with certain specific disabilities (i.e., all trainable mentally retarded classes, all brain injured classes, all multiply handicapped classes, etc.).

V114. Testify or prepare testimony for a due process hearing involving the appropriate placement of a child.

Scale Statistics

N = 178

Mean = 49.31

Variance = 55.94

S.D. = 7.48

Inter-Item Correlations

Mean = .17

Minimum = -.18

Maximum = .66

Reliability Coefficient

Alpha = .77

Sub-Scale 8.1: Role Change in Mainstream Consultation

Content

V97. Confer with and advise classroom teachers, guidance counselors, and principles with respect to the problems of children in the regular classroom.

v98. Design a program of special help or remedial services for a child having academic or social difficulties in the regular classroom.

V99. Work with the teacher, counselor, and/or principal to insure that the program is implemented, evaluated, and revised as necessary to maximize the likelihood of its success.

V106. Follow the progress of a child retained in the regular classroom after testing, providing special services where necessary.

Scale Statistics

N = 178

Mean = 11.80

Variance = 8.12

S.D. = 2.85

Inter-Item Correlations

Mean = .39

Minimum = .20

Maximum = .46

Reliability Coefficient

Alpha = .72

Sub-Scale 8.2: Role Change in Special Education Consultation

Content

V107. Follow the progress of a child assigned to special education ater testing by providing special services where necessary.

V109. Secure, plan, or administer remedial services in the special classroom such as speech therapy, physical therapy, medical services, etc.

V110. Participate in the development of new programs in special education.

V112. Evaluate existing special education programs at the school district or intermediate unit level.

V113. Supervise or provide special services to special education programs that address the needs of children with certain specific disabilities (i.e., all trainable mentally retarded classes, all brain injured classes, all multiply handicapped classes, etc.).

Scale Statistics

N = 178

Mean = 12.13

Variance = 18.75

S.D. = 4.33

Inter-Item Correlations

Mean = .43

Minimum = .29

Maximum = .61

Reliability Coefficient

Alpha = .79

Sub-Scale 3.3: Role Change in Assessment Practices

Content

V100. Test children who have been referred by school personnel, outside agencies, or their parents.

V101. Complete forms following testing that report measures of intelligence, achievement, social maturity and development, emotional development, and perceptual motor skills.

V102. Write reports describing test results and specifying educational needs for those children tested.

V103. Visit special programs to determine their suitability for an individual child in need of special education.

V104. Make specific program recommendations for children tested and found to be in need of special education.

V105. Confer with parents to report and explain test results, and/or make specific recommendations regarding the placement of their child.

V108. Reevaluate children who have previously been assigned to special education.

Scale Statistics

N = 178

Mean = 22.02

Variance = 11.84

S.D. = 3.44

Inter-Item Correlations

Mean = .43

Minimum = .29

Maximum = .61

Reliability Coefficient

Alpha = .78

Scale 9: Professional Commitment

Content

V1. When novel situations arise I attempt to take charge and show other people how to solve problems creatively.

V3. In solving problems that emerge on the job, I prefer to be left to my own devices, rather than closely supervised.

V4. In order to do a professional job in my role, I insist upon freedom to bend specific rules and procedures when necessary.

V7. Much of my professional time is spent in the attempt to develop new ideas and procedures for use on the job.

V8. I make myself available to students and parents on a regular basis even if it involves some sacrifice of my own time.

V11. I invite parents to discuss the problems of their child whenever necessary.

Scale Statistics

N = 178

Mean = 23.66

Variance = 8.79

S.D. = 2.96

Inter-Item Correlations

Mean = .12

Minimum = -.08

Maximum .35

Reliability Coefficient

Alpha = .44

Scale 10: Organizational Commitment

Content

V2. Whether I am right or wrong it is important that my supervisors support me when I am criticized by outside people.

V5. Experience on the job is the most important part of my professional competency.

V6. In novel situations I check with a supervisor before taking any direct action.

V9. In almost every decision, my first concern is to cooperate with my colleagues and maintain a good working relationship.

V12. Each child must adapt so that the schools can maintain the educational and social levels they have had in the past.

V13. I would be willing to leave my current job for a better position in the same school system, even if it meant that my professional responsibilities changed.

Scale Statistics

N = 178

Mean = 17.66

Variance = 17.18

S.D. = 4.14

Inter-Item Correlations

Mean = .16

Minimum = .005

Maximum = .33

Reliability Coefficient

Alpha = .52

Scale 11: Bureaucratic Formalization

Content

V14. The curriculum and materials to be used in special education classroom.

V15. Evaluation procedures by which the quality of special education programs can be assessed.

V16. Referral procedures to be used in recommending a child for counseling services.

V17. Referral procedures by which teachers, counselors, and/or principals can request psychological services for a child.

V18. The testing procedures to be used by counselors or psychologists with students referred for differing problems.

V19. The issuance of educational prescriptions by counselors or school psychologists that state the results of psychological testing, and recommend an appropriate program for a child.

V20. Procedures by which school officials can secure remedial services for a child assigned to special education, such as speech therapy, psychiatric services, etc.

V21. Reevaluation procedures for a child previously assigned to special education.

V22. Procedures for securing parental permission for a child to be tested by a counselor or school psychologist.

V23. Procedures by which a child previously assigned to special education may be returned to the regular classroom for some or all of his educational program (sometimes called "mainstreaming").

V24. Procedures for securing parental consent when assigning a child to special education.

V25. Teaching methods used in special education classrooms.

Scale Statistics

N = 178

Mean = 46.72

Variance = 37.19

S.D. = 6.10

Inter-Item Correlations

Mean = .18

Minimum = -.03

Maximum = .60

Reliability Coefficient

Alpha = .72

APPENDIX IV

DUE PROCESS CODING INSTRUMENT

CASE NAME: ______________________________

CASE NUMBER: ______________________________

CODER'S NAME: ______________________________

DATE CODED: ______________________________

VERIFIER'S NAME: ______________________________

DATE VERIFIED: ______________________________

COMMENTS: ______________________________

Peter Kuriloff
Louise George
Project on Student Classification
and the Law
11/7/75

RESEARCH INSTRUMENT: Not for duplication or citation without written permission of the authors.

GENERAL INFORMATION

01. Is the hearing open?.. ___

02. Date of the hearing (month)................................. ___ ___

03. Date of the hearing (year).................................. ___

04. Demographic data.. ___ ___

05. What is the child's age?.................................... ___ ___

06. What is the child's sex?.................................... ___

07. Has the child ever been in special education?............... ___

Placement Data (place individual numbers of special services below and give total number in special services column to the right)

	Level	Fac.	Sp. Sv.
08. What is the child's present placement?........................			
09. What placement is the parent asking for?.....................			
10. What placement is the school asking for?.....................			

SCHOOL DATA

11. What school district is represented?........................ ___ ___ ___

12. What intermediate unit is represented?...................... ___ ___

13. Is there a lawyer present for the school?................... ___

14. Is there a lawyer who directs the case for the school?...... ___

501. How many exhibits in each of the following groups were submitted as evidence by the school district or intermediate unit?

15. Diagnostic exhibits... ___ ___

16. Exhibits relating to child's performance in school.......... ___ ___

17. Exhibits pertaining to child's family background and home performance ___ ___

502. How many witnesses in each of the following groups appear for the school?

18. Medical... ___ ___

19. Psychological... ___ ___

20. Educational... ___ ___

21. Non-professional.. ___ ___

22. Other professional (list below and give total number to the right). ___ ___

________________ ________________

________________ ________________

503. Degree to which the school addresses the issues of the consent decree

23. Did the school prepare a psychological evaluation?.................. ______

24. Was the school's evaluation broad (versus narrow)?.................. ______

25. Did the school prepare a prescription which follows from their evaluation? ______

26. Was the school's prescription flexible and individualized (versus rigid and narrow)?.. ______

27. Did the school propose a program which followed from the prescription? ______

28. Was the school's program created to meet individual needs?.......... ______

504. School involvement with parent prior to hearing

29. Has the school's evaluation been explained to the parents?.......... ______

30. Has procedure by which school arrived at placement decision been explained to the parents?... ______

31. Has content of program child will be in been explained to parents?.. ______

What are the central issues in the school's case?

32. Classification... ______

33. Content/Quality.. ______

34. Transportation... ______

35. Exclusion.. ______

36. Quality of school's presentation (rate 1-5)........................ ______

PARENT DATA

37. Is there a lawyer present for the parents?......................... ______

38. Is there a lawyer who directs the case for the parents?............ ______

39. Is there a representative other than a lawyer who directs the case for the parents?.. ______

505. How many exhibits in each of the following groups were submitted as evidence by the parents?

40. Diagnostic exhibits.. __ __

41. Exhibits relating to child's performance in school................. __ __

42. Exhibits pertaining to child's family background and home performance __ __

506. How many witnesses in each of the following groups appear for the parents?

43. Medical.. ___ ___

44. Psychological.. ___ ___

45. Educational.. ___ ___

46. Non-professional..................................... ___ ___

47. Other professional (list below and give total to the right).......... ___ ___

______________________ ______________________

______________________ ______________________

507. Parent involvement with school prior to due process hearing (prior to the hearing, which of the following people were consulted by the parents?)

48. Principal.. ______

49. School psychologist.................................. ______

50. Other teachers....................................... ______

51. Classroom teacher (child's present).................. ______

52. Classroom teacher (child's past)..................... ______

53. Classroom teacher (child's proposed)................. ______

54. Guidance counselor................................... ______

55. Director of special education (I.U. or district) i.e. person who is in charge of special education.................. ______

56. Attorney for school.................................. ______

57. Medical personnel.................................... ______

58. Middle level administrator........................... ______

59. Superintendent....................................... ______

60. Home-school contact people........................... ______

61. Other diagnosticians (list below and give total number to the right). ______

______________________ ______________________

62. Non-professional..................................... ______

63. Other (list below and give total number to the right)................ ______

______________________ ______________________

______________________ ______________________

508. Parent preparation prior to due process hearing independent of school (prior to the hearing, which of the following people were contacted by the parents?)

64. Family friend.. ______

65. Family relative.. ______

66. Other non-professional (list below and give total number to the right) ______

67. M.D. (contact only).. ______

68. Licensed school psychologist (contact only).......................... ______

69. MHMR representative (contact only)................................... ______
List below and give total number to the right

______________________ ______________________

______________________ ______________________

70. Independent educator (contact only).................................. ______

71. Attorney (contact only).. ______

72. Other diagnostician (contact only) List below and give total number to the right.. ______

______________________ ______________________

______________________ ______________________

73. Other professional (contact only) List below and give total number to the right.. ______

______________________ ______________________

______________________ ______________________

74. Parc representative (contact only)................................... ______

75. M.D. (evaluation gotten)... ______

76. Licensed school psychologist (evaluation gotten)..................... ______

77. MHMR representative (evaluation gotten).............................. ______
List below and give total number to the right

______________________ ______________________

______________________ ______________________

78. Independent educator (evaluation gotten)............................. ______

79. Attorney (evaluation gotten)... ______

Parent preparation independent of school (continued)

80. Other diagnostician (evaluation gotten) List below and give total number to the right.. ______

______________________ ______________________

______________________ ______________________

81. Other professional (evaluation gotten) List below and give total number to the right.. ______

______________________ ______________________

______________________ ______________________

82. Parc representative (evaluation gotten)............................ ______

What are the central issues in the parent's case?

83. Classification.. ______

84. Content/Quality.. ______

85. Transportation.. ______

86. Exclusion.. ______

87. Quality of parent's presentation (rate from 1-5).................... ______

88. Effectiveness of parent's questioning (rate from 1-5)................ ______

509. Degree to which demands of parent's tax school resources

89. Program location (rate 0-4).. ______

90. Do transportation facilities to program exist? (rate 0-3)............ ______

91. Are support services available? (rate 0-3).......................... ______

HEARING OFFICER DATA

92. With which of the following is the hearing officer affiliated? .... ____
1. School district 2. intermediate unit 3. college or university

93. Does the hearing officer do most of the questioning whether or not there are lawyers present?.. ____

510. Degree to which the hearing officer adheres to the requirements of the consent decree

94. Does the hearing officer explain Appeals procedures?................ ____

95. Does the hearing officer allow cross-examination?.................. ____

96. Does the hearing officer attempt to find out from the parent or school if there is a need for the proposed change? (i.e. does he/she inquire into the quality of the evaluation?)............................... ____

97. Does the hearing officer try to find out whether there is a fit between evaluations and prescription? Does the hearing officer examine the relationship between the evaluation and the prescription?.......... ____

98. Does the hearing officer try to find out if the program is adequate to meet the prescription?.. ____

99. Does the hearing officer address him/herself to the concept of normalization?... ____

511. Degree to which the hearing officer attempts to run an impartial hearing (each question should be answered twice, once using the bias scale and once as yes/no)

		Bias	Yes/no
100	Does the hearing officer refuse to admit arguable relevant testimony?	____	106 ____
101	Does the hearing officer discredit the status of the witness?.......	____	107 ____
102	Does the hearing officer admit evidence after expressing doubts about admissibility?..	____	108 ____
103	Does the hearing officer make statements or inquiries reasonably necessary to clarify or respond to statements of parents and/or school, and/or their witnesses?..................................	____	109 ____
104	Does the hearing officer make statments or inquiries necessary to insure that parents' or school's stories come out completely?.......	____	110 ____
105	Does the hearing officer show anger, impatience, or sarcasm towards either side?..	____	111 ____

IMPORTANCE OF ARGUMENTS TO SCHOOL'S CASE

Which of the following arguments are used? (rank order)

Arg. # Rank Order

512. Intellectual status of the child
    112. I.Q. score lower than placement warrants
    113. I.Q. score higher than placement warrants
    114. Child is far behind in regular work
    115. Other (describe)________________________

513. Social status of child
    116. Discipline (child disrupts class)
    117. Child cannot get along with other children (aggressive)
    118. Child cannot get along with other children (withdrawn)
    119. Child's misbehavior outside classroom
    120. Other (describe)________________________

514. Stigmatization, labeling
    121. Child will be ridiculed if he/she stays in present placement
    122. Other (describe)________________________

515. Adequacies of present placement
    123. Child's physical handicap
    124. Child would require so much of teacher's attention, others in the classroom would suffer
    125. Child is in most appropriate placement for disability
    126. School is concerned with safety factors
    127. Other (describe)________________________

516. Adequacies of proposed placement
    128. Child has regressed in present placement
    129. Child needs more individualized instruction
    130. Child has made no progress in present placement
    131. Other (describe)________________________

517. Location, transportation, class size
    132. No bus available to transport child
    133. Building in unacceptable location
    134. No room for child in the class
    135. Other (describe)________________________

518. General arguments
    136. Present placement is the most appropriate for the child
    137. Proposed program is adequate to meet the needs of the child
    138. School is offering I.U. or district placement to child presently not in the public school system
    139. Other (describe)________________________

519. Inadequacy of any school program
    140. Child's developmental status requires something the school cannot provide
    141. School does not have a suitable program
    142. Other (describe)________________________

IMPORTANCE OF ARGUMENTS TO PARENT'S CASE

Arg. # Rank Order

Which of the following arguments are used? (rank order)

520. Intellectual status of the child
    143. I.Q. score lower than placement warrants
    144. I.Q. score higher than placement warrants
    145. Home performance is better than that indicated by I.Q. score
    146. Home performance is better than school performance
    147. Child's report card grades have been good
    148. Testing procedure was inappropriate for the child
    149. Other (describe)____________________

521. Social status of the child
    150. Social adjustment at home better than that reported by school (child gets along with other children and adults)
    151. Child's adjustment in community better than reported by school
    152. Other (describe)____________________

522. Stigmatization, labeling
    153. Parent is concerned about child's stigmatization
    154. Child is concerned about his/her stigmatization
    155. Parent has heard that any classes for retarded children are bad
    156. Other (describe)____________________

523. Inadequacies of present placement
    157. Child is fearful of other children in classroom
    158. Child is not getting individual attention he/she needs
    159. Parent believes child is learning nothing in present placement
    160. Other children in classroom are teaching him/her bad habits
    161. Child is unable to keep up with work in present placement
    162. Child has regressed in present placement
    163. Parent (or child) does not like teacher
    164. Children in present placement are significantly different from child
    165. Parent has had no previous indication that child is not keeping up with work
    166. With a little extra help at home, child could keep up with class work
    167. Parent is concerned with child's safety
    168. Child is not getting necessary remedial services
    169. School is not meeting all of the child's exceptionalities
    170. Staff is inadequate and cannot properly handle the program
    171. Other (describe)____________________

524. Inadequacies of proposed placement
    172. Child will not learn anything in proposed program
    173. Children in proposed program would teach him/her bad habits
    174. Child would be unable to keep up with work in proposed program
    175. Child would regress in proposed placement
    176. Children in proposed placement are significantly different from child
    177. Proposed placement will not meet all of child's exceptionalities
    178. Proposed staff is inadequate and cannot properly handle program
    179. Child will not get necessary remedial services
    180. Other (describe)____________________

PARENT ARGUMENTS (continued)

Arg. # Rank Order

525. Location, transportation, and class size
    181. Present placement is too far away
    182. Proposed placement is too far away
    183. Parent objects to location of proposed class (reasons besides distance), old building, etc.
    184. Parent objects to location of present class (reasons besides distance)
    185. No way to transport child to program
    186. Bus trip is too long
    187. Child is being victimized on the bus
    188. Bus arrangements are inadequate
    189. Too many children in the class
    190. Other (describe)______________________________

526. General arguments
    191. Present program does not meet child's needs
    192. Proposed program does not meet child's needs
    193. Other (describe)______________________________

527. Inadequacy of any school program
    194. Private placement is more suited to child's needs than district or I.U. placement
    195. Other (describe)______________________________

HEARING OFFICER'S RECOMMENDATIONS

Placement data

		Level	Facility
201.	What placement does the parent want?.....................		
202.	What placement does the school want?.....................		
203.	What placement does the hearing officer recommend?.......		

What does the hearing officer see as the central issues of the school's case?

204. Classification... ______

205. Content/Quality.. ______

206. Transportation... ______

207. Exclusion.. ______

What does the hearing officer see as the central issues of the parent's case?

208. Classification... ______

209. Content/Quality.. ______

210. Transportation... ______

211. Exclusion.. ______

Outcome of classification issue

212. School (win-loss) rate 0-4............................... ______

213. Parent (win-loss) rate 0-4............................... ______

Outcome of Content/Quality issue

214. School (win-loss) rate 0-5............................... ______

215. Parent (win-loss) rate 0-5............................... ______

Outcome of case

216. School (win-loss) rate 0-5............................... ______

217. Parent (win-loss) rate 0-5............................... ______

APPENDIX V

DUE PROCESS CODING MANUAL

Peter Kuriloff
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Project on Student Classification
and the Law
12/2/75

RESEARCH INSTRUMENT: Not for publication or duplication without
written permission of the authors.

CODING MANUAL

01. Is the hearing open? This should be coded as either "yes" (1) or "no" (0). If a hearing is closed, it should have been made confidential, i.e., all of the names should have been crossed out. Also, the fact that the hearing is closed will probably be mentioned at the beginning of the transcript. Should you find a closed hearing which has not been rendered confidential, DO NOT PROCEED.

02. Month of hearing. Code as follows:

January = 01
February = 02
March = 03
April = 04
May = 05
June = 06
July = 07
August = 08
September = 09
October = 10
November = 11
December = 12

03. Year of hearing. Code as follows:

1972 = 2
1973 = 3
1974 = 4
1975 = 5

04. Demographic data. This information may be obtained from Appendix I, Alphabetical listing of school systems operating under a district superintendent. Code the information listed in the Census and SES column.

05. Age; If the child is six months or more past a birthday, code his/her age as of the next birthday. If less than six months, code the age as of the last birthday. If the hearing is for two children, code the age of the elder. Note the age of the younger child to the left of the coded material. If the information is not available, code as 00. (Helpful hint: sometimes there will be a date of birth given in one of the exhibits at the back of the case. You can derive age by using this and the hearing data.)

06. Sex: 1=male, 2=female. If the hearing is for two children, code the sex of the elder. Note the sex of the younger child to the left of the coded material.

07. If there is evidence that the child has ever been in a special education program (even though he or she may not currently be enrolled in one) code as yes (1). This applies not only to programs run by the district or intermediate unit, but also to private or institutional placements.

Questions 08, 09, and 10 each consist of three separate items which can be found in Appendix 2, Placement Data. The first of these items, program level, is the specific program to which the child is currently assigned or which is being requested by either the parent or the school. If the child is not yet school age, the present placement should be coded as 00. 1.0 to 1.3 are designations which should be used if the child is presently in a classroom for normal children. If the child is currently repeating a grade, find out if he or she has been in this grade once before the current academic year or twice before the current academic year and select the appropriate number. If the child has been in the placement for more than two years before the current academic year, code as 1.2, classroom for normal children (repeated twice). 1.3 should be used for children who are currently experiencing their present placement for the first time, but who have repeated a grade in the past. For example, if you have a child who is currently in the fifth grade for the first time but who spent two years in the first grade, this should be coded as 1.3, Classroom for normal children (grade repeated in past).

Facility means the specific building to which the child is currently assigned or to which the parent or school wishes him to be assigned. Facility level is rated from 0-7. If the child is presently not yet school age, is currently excluded, or is currently receiving homebound instruction, the facility for present placement is 0, none. This should also be used when either the parent or the school is requesting exclusion or homebound instruction.

If you find a case in which the intermediate unit does not specify the building in which the class is to be held, please note this on the front cover, but code as 4, intermediate unit classroom in building with regular classes. The intermediate unit nearly always specifies where the class is being held, so there should be very few of these.

Special services are those services which are currently being given or which are being requested in addition to the regular program . The special services list in the appendix includes a number of related services grouped under single headings. For example, hearing problems includes services for the acoustic handicapped as well as services for the deaf. Visual problems includes both sight conservation and special services for the blind. Physical therapy includes coordination and motor therapy and special services for the physically handicapped. You may find additional special services which should be included in our list. Please write these in beside the appropriate placement question and count them as part of your total number of special services.

REMEMBER: Be very careful that what you are coding as special services is in addition to the material provided in the regular program. WE WANT ONLY THOSE SERVICES WHICH ARE PROVIDED BY A PERSON FROM OUTSIDE THE CLASSROOM AS AN ADDITION TO THE EXISTING PROGRAM.

School Data

11. School district represented. This information may be obtained from Appendix I, Alphabetical listing of school systems operating under a district superintendent. Code the information listed under the ID# column opposite the name of the school district.

12. Intermediate Unit represented. This information may be obtained from Appendix I, Alphabetical listing of school systems operating under a district superintendent. Code the information listed under the IU column opposite the name of the school district.

13. Lawyer present. If there is a lawyer present for the school (even if he contributes absolutely nothing to the proceedings) code as yes (1). If no lawyer appears for the Intermediate Unit or district, code as no (0).

14. Lawyer directs. This question is a measure of the lawyer's importance and level of activity in the hearing. Directs is defined as "calls witnesses, examines witnesses, decides order in which material is to be presented, and generally runs the case." If the lawyer does these things, answer yes (1) to this question. If he does not do these things (or if there is no lawyer present) answer no (0).

501. Exhibits. CHECK DUE PROCESS HEARINGS BOX BEFORE PROCEEDING. IF YOUR CASE IS LISTED AS "NO EXHIBITS", DO NOT ANSWER THE FOLLOWING QUESTIONS.

15. Diagnostic exhibits. This includes all psychological examinations, medical reports, and all measures of physical development, intellectual development, and social development. It also includes material which, while it may not technically constitute a report, is the written opinion of a diagnostician. For example:

ADDITIONAL INSTRUCTIONS ON THE CODING OF EXHIBITS

1. Each of the following which is physically present should be counted as one diagnostic exhibit:
    - a. Each recent test (e.g., WRAT, WISC, Stanford-Binet)
    - b. Each recent medical report done by a separate physician or hospital
    - c. Referral Placement Master
    - d. Each letter expressing a diagnostic opinion
    - e. Observation when used as a diagnostic tool
2. Each of the following should be counted as one school performance exhibit:
    - a. Each recent evaluation done by a different teacher
    - b. Child's most recent reportcard
    - c. History- all old diagnostic material should be lumped together and given one point.
    - d. Referral sheet
    - e. Child's school file (e.g., old report cards, old teacher evaluations)
    - f. Examples of child's school work- Give one point total, do not rate each piece separately.
    - g. One point for each non-professional evaluation (e.g. bus driver's log)
3. Each of the following should be counted as one family background and home performance exhibit:
    - a. Each recent social worker's report or log done by a different individual.
    - b. All old social worker and home contact reports should be lumped and counted as one.
    - c. Time schedule for child at home.
    - d. Each report on the child's progress in the home and/or community (e.g., reports from ministers, scout leaders)
    - e. Family information on the child
    - f. Examples of child's work done at home- Give one point total, do not rate each piece separately.

DO NOT CODE: Due process hearing notice
Procedural correspondence

To whom it may concern:

Re: J.Z.

On the strength of Joseph's progress in the first year that he had therapy, I respectfully recommend that he stay another year in the public schools and no decision be made till next year.
Please don't punish the victim.

F.L.
Hearing Clinician
April 16, 1975

Count up the total number of diagnostic exhibits which appear in the back file of the case, and place total to the right. Should there be anything out of the ordinary (for example, the most recent psychological you can find is 4 years old), note this to the left, in addition to including it in the total.

16. Exhibits relating to child's performance in school. This would include the child's school file, report card, examples of child's school work, and written reports from school personnel who could not be considered diagnosticians (eg. teachers, teachers' aides, bus drivers, and janitors). Count up the total number of school performance exhibits in the back file of the case, and place total to the right. Note anything unusual (or humorous) to the left, in addition to including it in the total.

17. Exhibits pertaining to child's family background and home performance. This would include family information on the child, family background material, written information from the case worker or home school visitor on the family. Also included in this group would be any written material relevant to the child's home performance submitted by the school.

502. Witnesses. A witness is one "who testifies, is questioned, or volunteers."* A person who is present but contributes nothing to the hearing is an observer. DO NOT CODE OBSERVERS, ONLY WITNESSES. The hearing officer and the lawyers are not witnesses. Everyone else who speaks is.

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*Black's Law Dictionary

18. Medical. This includes Neurologists, Pediatricians, Opthamologists, Nurses, Psychiatrists, and other medical personnel who testify for the school. Count up the total number of witnesses and record this number to the right.

19. Psychological. This includes intermediate unit and district psychologists and counselors who appear for the school. Count up the total number and record to the right.

20. Educational. This includes teachers, teachers' aides, and all school administrators who appear for the school. Count up the total number and record to the right.

21. Non-professional. This includes bus drivers, janitors, cafeteria workers, and other non-professionals. Count up total number and record to the right.

22. Other professional. Should you find a professional appearing for the school who does not appear to fit into any of the existing categories, code him/her in this category. Make sure you list the person's title (and the page number of the first testimony) on the sheet.

503. Degree to which the school addresses the issues of the consent decree.

23. Make sure that the adversary school district does its own evaluation. If they use an evaluation done by another district, do not give credit on this question. If there is ample evidence that the school has done an evaluation, code as yes (1), if not, code as no, (0).

24. Broad is defined as "covering a wide scope." Conversely, narrow means restricted in scope. A broad evaluation must include, in addition to an I.Q., at least, an emotional evaluation, a test of social adjustment and maturation, a test of motor development, and a test of academic development. It must be an assessment which covers more than the traditional measures of intellectual development. Remember, fifty I.Q. tests do not constitute a broad evaluation. If the school has completed a Referral Placement Master (RPM), you may assume that the evaluation

is broad. One final point: a broad evaluation should address all of the child's exceptionalities. For example, if part of the placement dispute centers around the child's ability or inability to hear, the child should have been examined by an audiologist. If the school has not done this, then their evaluation cannot be considered broad. If, after weighing these factors, you feel that the evaluation is broad, score as yes, (1), if not, score as no, (0).

25. A prescription is a description of what the child needs. Please note that it is not the same as a program, which is a specific recommendation for a course of study or therapy. Ideally, the prescription should take into consideration all of the material which would be found in a broad evaluation. In reality, if the evaluation is narrow, then the prescription which follows will also be narrow. For example, suppose that the school district claims that the child is too severely retarded to be tested. They say that even using the Vineland with the mother as respondent is hopeless because the child is so retarded that the mother does not know how to answer the questions. This is a narrow evaluation. Suppose that because of the severity of the child's condition, the district recommends exclusion. This is a prescription which follows from the evaluation. It is important to remember that not all schools do a prescription. Some may jump from the evaluation to a program. If the school does not prepare any prescription, the answers for questions 25-28 must be no. If you feel that the school has prepared a prescription which follows from their evaluation, then score as yes (1), if not, score as no, (0).

26. Flexible means that a preconceived set of rules or ideas may be altered to allow for individual differences and the varied needs of each member of the student population. Therefore, a flexible prescription would be one which considers the child as a person rather than as a member of a specific group which has clearly defined "symptoms". For example, suppose that the child has a full scale I.Q. of 76 on the WISC (well within the normal range), and

is presently in a normal classroom and is not performing satisfactorily. Further, suppose that the evaluation has shown that the child has definite emotional problems. Suppose that the school says that the child needs special classes for all of his/her academic subjects because of "withdrawal and inability to function in the regular classroom". This is a rigid prescription (one which is made strictly according to a preconceived or preplanned set of ideas or rules--possibly but not necessarily state mandated--with virtually no allowance being made for individual differences). The rule which is being followed here is that children who are unable to function in the regular classroom belong in special classes. ANY CASE IN WHICH THE SCHOOL ASSUMES THAT A MANDATED CATEGORY MEANS THAT A CHILD WILL GET WHAT HE/SHE NEEDS IS RIGID. An individualized prescription in this case might be to say that the child needs help in overcoming his/her emotional problems through play therapy, and special help in coping with academic demands through perceptual motor training. If you feel that the school's prescription was flexible and individualized, score as (1), yes, if not, score as (0), no. ALSO SCORE AS NO IF THE SCHOOL HAS NOT PREPARED A PRESCRIPTION.

27. A program is a specific recommendation for a course of study or therapy that finds its actual expression in a classroom or other facility. Ideally, the specific recommendation will modify a general program description to fit the needs of the child, and will follow from the evaluation and the prescription. In reality, this is not always the case. To return to the example cited in the previous question, suppose that the school recommended that the child needed an educable mentally retarded class (EMR). This program would follow from the narrow prescription (the child needs special classes for all of his/her academic subjects), but would not follow from the broad prescription (the child needs

help in overcoming emotional problems through play therapy, and help in coping with academic demands through perceptual motor training). If you feel that the program followed from the prescription, score as yes, (1), if not, score as no, (0). ALSO SCORE AS NO IF THE SCHOOL HAS NOT PREPARED A PRESCRIPTION.

28. In this question we want to know if the school considered the individual needs of the child, or if they made the program decision strictly on the basis of what programs already existed within the district, what programs had room for the child, or what programs were convenient in terms of transportation. If you feel that the school has considered the individual needs of the child, score as yes (1), if not, score as no (0). ALSO SCORE AS NO IF THE SCHOOL HAS NOT PREPARED A PRESCRIPTION.

504. School involvement with parent prior to hearing.

29. This question could also be worded: Is there an indication that prior to the hearing, the school, either in a conference, in a visit to the home, or via letter explained to the parents the type of evaluation that was used on the child and the results of the evaluation? If there is some controversy as to whether or not the explanation actually occurred, use the school's version in determining how to code this. If the evaluation has been explained to the parents, score as yes (1), if not, score as (0), no.

30. Placement is the actual class in which the program will be given. Has the school told the parent why they wish to assign their child to this class? Have the parents been told what procedure the school followed in making this decision? If this procedure has been explained to the parents, score as yes (1), if not, score as (0), no. If there is some controversy as to whether or not the explanation actually occurred, use the school's version in determining how to code this.

31. Program content is the specific items that the program contains. Learning materials, support services (such as speech therapy), and proposed course of study are examples of program content. As in the previous questions, this information must have been imparted to the parents prior to the hearing in order to get credit on this question. If the program content has been explained to the parents, score as yes (1), if not, score as no (0).

Central issues

A central issue is one which is essential or principal to the case. It is an issue which is found to be important to the majority of the school's presentation. A peripheral issue is one which,while not essential to the presentation, supports the central issue or is in a minor way relevant to the proceedings. CODE ONLY CENTRAL ISSUES HERE. Peripheral issues, if they occur, should be considered under Importance of Arguments to School's Case. Remember that in order to be an issue, there must be some dispute. For example, if both the parent and the school agree that the child is educable mentally retarded, then classification is not an issue.

32. Classification is the label attached to a child's social, emotional, mental and/or academic development. Examples of this include "normal", "mentally retarded", "educable", "trainable", and "learning disabled". Each classification denotes a current level of performance . Exclusion is also a form of classification, and anything that is scored yes in question 35 should also be scored yes in this question. If you feel that classification is an issue in the school's case, score as yes, (1), if not, score as no, (0). (see Note 1 p.36)

33. Content/Quality. This issue covers both what the program contains and how good it is. Learning materials, support services, proposed course of study, proposed course of therapy, class size, location of program are all included

in this issue as well as such quality factors as the background of the staff, the condition of the equipment, and the number of hours spent in the program. Transportation is also a content/quality issue, and anything that is scored yes in question 34 should also be scored yes in this question. If you feel that content/quality is an issue in the school's case, score as yes, (1), if not, score as no, (0). (see Note 1)

34. The transportation issue is used when one of the central issues is how the child is going to get to the program. Usually the dispute will center around busing, i.e., the school does not have a bus which can take the child to the program, the school wants the child to use public transportation, transporting the child would be difficult because of the child's disabilities, and so forth. If transportation is an issue in the school's case, score as yes (1), if not, score as no, (0). (see Note 1)

35. Exclusion should be coded as a central issue only when it is directly addressed. Often, you will get a case where the child is not in school and is receiving no educational instruction in the home, but the word exclusion is never mentioned by either party in the hearing. While the child has been excluded, this issue is not being addressed. Code this type of case on the issues being decided, not on the exclusion issue. You will sometimes find a case in which the school district is applying for permanent exclusion under Purdon's statutes and this will be the issue which dominates the proceedings. This is what we are considering a case with an exclusion issue. Rate this question as yes (1) or no (0). (see Note 1)

36. Quality of the school's presentation

Select the number on the scale which most nearly describes the quality of the school's presentation.

Quality of School's Presentation

1. No presentation: The school is not well versed in all the issues relevant to the case. Consequently, its officials have nothing to propose and seek to raise extraneous issues and otherwise obfuscate the question. Presentation is very poor or non-existent. Often, such basics as a copy of the due process notice, an evaluation, or a recommendation will be missing.

2. Presentation poor: The school has done some preparation but is not well versed in all of the issues arguably relevant to the case. The school may fail to describe the content of its proposal, or it may not be able to give the where, what or who of the actual program instead of just the category.

3. Presentation adequate, but not objectively supported: The school is well versed in all the information relevant to the issues contained in the case. The testimony is objective, but it is not well presented nor is it particularly well developed. While some exhibits or witnesses may be presented where arguably relevant, there is usually a substantial amount of testimony (approximately ½) which is unsupported by outside evidence.

4. Presentation adequate, objectively based, but not well organized: The school is well versed in all the information relevant to the issues contained in the case. It presents objective evidence or testimony, where arguably relevant, which is backed up by appropriate exhibits and expert witnesses prepared to testify. However, the case is not argued as well as it might be. It is not presented in an organized, logical manner.

5. Presentation adequate, objectively based, and well organized and argued: The school is well versed in all the information relevant to the issues contained in the case. Their position is supported by documents, or witnesses where arguably relevant, and is presented in an organized, tight and impressive way. The case has a cohesive, logical framework in which it stands. A well organized, logically presented case should include the following components:
    1) A clear statement of the child's problem and of the school's position in the case.
    2) A clear statement of the evaluation procedures and of the test results.
    3) A diagnostic statement interpreting the evaluation and testing.
    4) A placement recommendation that clearly follows from the diagnostic statement and the evaluation.

   In addition, these components must be related and presented so that each reinforces the other in developing the presentation.

6. In addition to fulfilling all of the requirements mentioned in #5, the case addresses a larger framework of social issues and uses these to add additional weight to the case. The specific theoretical issues which are addressed will depend on the nature of the case.

PARENT DATA

37. Lawyer present. If there is a lawyer present for the parents (even if he contributes nothing to the proceedings), code as yes (1). If no lawyer appears for the parents, code as no (0).

38. Lawyer directs. This question is a measure of the lawyer's importance and activity in the hearing procedure. Directs is defined as "calls witnesses, examines witnesses, decides order in which material is to be presented, and generally runs the case." If the lawyer does these things, answer yes (1) to this question. If he does not do these things (or if there is no lawyer present), answer no (0).

505. Exhibits. CHECK DUE PROCESS HEARINGS BOX BEFORE PROCEEDING. IF YOUR CASE IS LISTED AS "NO EXHIBITS," DO NOT ANSWER THE FOLLOWING QUESTIONS.

40. Diagnostic exhibits. This includes all psychological examinations, medical reports, and all measures of physical development, intellectual development, and social development submitted by the parents. It also includes material which, while it may not technically constitute a report, is the written opinion of a diagnostician. For example:

> TO WHOM IT MAY CONCERN: 11/29/72
>
> The G______ girls have always appeared normal to me the various times that I have treated them in my office.
>
> J.E.H., M.D.

Count up the total number of diagnostic exhibits which appear in the back file of the case, and place total to the right. Should there be anything out of the ordinary, note this to the left, in addition to including it in the total.

41. Exhibits pertaining to child's performance in school. This would include examples of child's school work, child's report card and written reports from

school personnel who could not be considered diagnosticians (e.g. teachers, teachers' aides, bus drivers, etc.) submitted by the parents. Count up the total number of school performance exhibits in the back file of the case, and place total to the right. Note anything unusual to the left, in addition to including it in the total.

42. Exhibits pertaining to child's family background and home performance. This would include examples of work done by the child at home, written schedules of the child's day, written information on home performance done by a case worker or other observer and any written material pertaining to the child's family background or home performance submitted by the parents. Count up the total number of family background and home performance exhibits submitted by the parents, and place the total to the right.

506. Witnesses. A witness is one who testifies, is questioned, or volunteers. A person who is present but contributes nothing to the hearing is an observer. DO NOT CODE OBSERVERS, ONLY WITNESSES. The hearing officer and lawyers are not witnesses. Everyone else who speaks is.

43. Medical. This includes neurologists, pediatricians, opthamologists, nurses, psychiatrists, general practicianers, and other medical personnel who testify for the parent. Count up the total number of witnesses in this category and record the number to the right.

44. Psychological. This includes teachers, teachers' aides, school administrators, and independent educators who appear for the parents. Count up the total number and place to the right.

46. Non-professional. This includes parents themselves if they testify. It also includes family friends, relatives, beauticians, and other individuals who, while in their own right may be "professionals", cannot bring professional insights to a due process hearing. For example, if an architect appears as a

character witness for the child, he would, for the hearing, be considered a "non-professional." Count up total number and place to the right.

47. Other professional. Should you find a professional appearing for the parent who does not appear to fit into any of the existing categories, code him/her in this category. Make sure you list the person's title (and the page number of the first testimony) on the sheet. PARC representatives appearing for the parent are most likely to be placed in this category, as are some representatives from United Cerebral Palsy and other private agencies. BE CAREFUL about this, though, since these people will often be Medical, Psychological, or Educational witnesses as well, and should be placed in their proper category if this is the case.

507. Parent involvement with school prior to hearing. These questions are to be used for all school personnel associated with both the child's present placement and with the child's proposed placement. Both public and private school officials should be coded here. The following general points should be considered in your rating of numbers 48-62:

1. Contact is a situation in which meaningful discussion of the case has occurred. Specific contact must occur to get points on these questions. Disregard vague allusions to contact and do not make unwarranted assumptions. In addition to being meaningful, the discussion must also be recent and in regard to the present situation. In some instances, the contact may include phone conversations but only if there is some indication that there was in fact a phone conference and that the call was not merely to set up a conference which never occurred.

2. For all of the people seen in this series of questions, place the total number seen in each category to the right.

3. If personnel from a private facility are consulted by the parents in a private professional capacity, such personnel should be coded under #508,

parent preparation prior to due process hearing independent of school. If such personnel were consulted by the parent in their capacities as affiliates of the private placement, they should be coded here. For example, if Dr. Y from private school X examines a child who is attending that school as part of the school's routine testing program, and as a result of that testing schedules a conference with the parents (a conference which actually occurs), credit should be given under this set of questions. If the parents consult Dr. Y when he is acting privately and separately from his job in the private facility, the contact should be rated under number 508.

4. Personnel from Mental Health and Mental Retardation Centers (MHMR) and from the Pennsylvania Association for Retarded Citizens (PARC) are not school personnel and should be rated under number 508.

5. If there is evidence of contact, but it is not clear whether it was specific enough to give credit, code as no (0), but make a note of the page number or numbers where the evidence occurs. Verifiers should pay special attention to such cases, and if they disagree, should call for a conference.

6. If there is an unresolved disagreement between the parent and the school which affects the coding of this series of questions, code the parent's point of view, unless there is written evidence in the back file which discredits the parent's testimony. If such a disagreement does occur, note this on the front cover of the rating instrument.

48. Both principals and assistant principals may be coded in this spot.

49. Use this for psychologists only. Counselors should be coded under number 54.

50. Other teachers include homebound teachers, teacher's aides, special subject teachers, and itinerant teachers. Use this for any teaching personnel other than the regular classroom teacher.

51-53. If the child's present classroom teacher and the child's past classroom teacher are the same person, give credit under *both* headings. If the child's past and the child's proposed teacher are the same person, give credit under both headings. If past, present and proposed are all the same person, give credit under present and proposed *but not* under all three headings.

54. This should be used for elementary guidance, secondary guidance, and vocational guidance counselors.

55. This should be used for the person who is in charge of special education in either an intermediate unit or a school district. Usually they are called directors of special education, but should you find someone with a different title (such as administrative assistant) who is *clearly* in charge of special education, code them here.

56. This should be used *only* for the attorney for the school district or intermediate unit.

57. This includes neuorologists, pediatricians, nurses, psychiatrists, and other medical personnel employed by the school and seen in their capacity as a school employee. DO NOT INCLUDE ANY MEDICAL PERSONNEL WHO ARE NOT SEEN IN THEIR OFFICIAL CAPACITY AS A SCHOOL EMPLOYEE.

58.. Middle level administrator is a category under which many titles may be coded. It means someone who is under the person who is in charge of special education. Such people may be called assistant director of special education, program coordinator, administrative assistant, or instructional advisor. When coding this, please write in the specific job title used as well as giving total number to the right.

59. Use this space to code only the district superintendent.

60. This includes home school visitors and social workers who are employed by the school district. IF THE SOCIAL WORKER IS NOT EMPLOYED BY THE SCHOOL DISTRICT BUT BY THE DEPARTMENT OF PUBLIC WELFARE, DO NOT CODE HERE.

61. This is to be used for diagnostic personnel who cannot strictly be considered medical personnel such as speech therapists, physical therapists, hearing and vision clincians and occupational therapists who are affiliated with the school district or intermediate unit. List these individuals in the space below (by job title) and give their total number to the right.

62. This should be used for cafeteria workers, janitors,bus drivers or any other non-professional worker affiliated with the school with whom the parent has had meaningful contact.

63. Should you find a professional with whom the parent has had a conference who does not appear to fit into any of the existing categories, code him/her here. List title and page number of evidence of contact below and code total number to the right. Incidently, this is not a category that you will have to use very often.

508. Parent preparation prior to due process hearing independent of school. Questions 64-82 involve three levels of inquiry. First, there is the range and number of non-professionals contacted by the parents. Second, there is the range and number of professionals which, while contacted by the parents, do not actually contribute an evaluation to the due process hearing, and third, there is the range and number of professionals contacted by the parent who actually give an evaluation and, either in writing or as witnesses, contribute to the hearing itself.

This sheet is to be used for all non-school personnel contacted by the parents prior to the hearing. Specific contact must occur to get points on this sheet. Disregard vague allusions to contact, and do not make unwarranted assumptions. The contact must be recent and in regard to the present situation. The contact may, in some instances, include telephone conversations if there is some indication that meaningful discussion took place.

Do not code school district personnel in this series of questions. They should be coded under number 507, Parent involvement with school prior to due process hearing. However, if personnel from a private school or facility are consulted by the parents in a private, professional capacity, they should be coded here. If they are consulted by the parent in their capacity as an affiliate of the private placement, they belong under number 507.

If there is evidence of contact, but it is not clear whether it was specific enough to give credit, code as no (0), but make a note of the page number or numbers where the evidence occurs. Verifiers should pay special attention to such cases, and if they disagree, should call for a conference.

64. Family friend also includes neighbors and other people with whom the family is in close contact. If this friend is also a relevant professional (an M.D., for example) code in his/her professional capacity rather than here.

65. This would include aunts, uncles, grandparents and other non-professional family members contacted by the parents. If the family member is also a relevant professional, code in his/her professional capacity rather than here. Give total number of those contacted to

the right.

66. This would include scout leaders, hairdressers, and those individuals who, while they may have a definite and well-defined profession, cannot bring specific educational insights into the case at hand, except in a non-professional sense. List, by job, below, and give total number of those contacted to the right.

67-74. These variables are to be used for those professionals who were contacted by the parents BUT FROM WHOM NO EVALUATION WAS OBTAINED. If an evaluation was obtained (i.e., either a written exhibit was submitted or the person appeared as a witness), the professionals should be coded under #75-82.

67. M.D. includes all pediatricians, neurologist, psychiatrists, general practitioner and all other types of medical doctors contacted by the parents who,were not seen as an employee of a school district or intermediate unit. Count up the total number contacted from whom an evaluation was not received and place to the right.

68. Remember that the psychologist must be seen OUTSIDE his capacity as a school employee. If the parents have been in touch with a psychologist who is not specifically listed as a school psychologist, he may be coded here also. Count up the total number contacted from whom an evaluation was not received and place this number to the right.

69. This applies to any representative of a mental health and mental retardation center who is not covered in another category. This might be, for example, an outreach or intake worker, a vocational counselor, or a case worker, with whom the parent has had contact but has not gotten an evaluation. Count up the total number and place this to the right.

70. Remember that this may be an educator who is not seen in his/her capacity as a school employee. For example, suppose that the parent gets in touch with

a reading specialist from the University of Pennsylvania. This would be considered an independent educator. Count up the total number and place this to the right.

71. Attorney. If the parent is in touch with an attorney who fails to come to the hearing, this should be listed as contact only.

72. This would include speech therapists, hearing clinicians, physical therapists, vision specialists and other diagnostic personnel who are not medical doctors who are consulted by the parents outside of their capacities as school employees. List by job title below and give total number to the right.

73. This would include individuals from United Cerebral Palsy and other private agencies with whom the parent has had contact prior to the hearing. List by job title and agency below and give total number to the right.

74. PARC representative. This includes all personnel from the Pennsylvania Association for Retarded Citizens contacted by the parent. If a PARC representative is present at the hearing, this is the equivalent of an "evaluation gotten" if there is evidence of prehearing contact between the representative and the parent. Further information on this is found under PARC representative, evaluation gotten, number 82. If there is evidence of contact with PARC, count up the number of individuals involved, and give total number to the right.

75-82. EVALUATION GOTTEN means that the person has either submitted a written exhibit or appears at the hearing as an expert witness. Remember that ANY PERSON CODED UNDER NUMBERS 67-74 CANNOT ALSO BE CODED HERE. The same categories of professionals apply to these variables, the primary difference being that in this set of questions the evaluation has actually been obtained.

ONE NOTE OF CAUTION. Should you have a PARC representative appearing for the parent, make sure that the parent has been in touch with PARC and has requested assistance. Sometimes PARC representatives will show up at a hearing unasked, and in this case, the parent should not receive credit for an evaluation gotten.

Issues

A central issue is one which is essential or principal to the case. It is an issue which is found to be important to the majority of the parent's presentation. A peripheral issue is one which, while not essential to the presentation, supports the central issue or is in a minor way relevant to the proceedings. CODE ONLY CENTRAL ISSUES HERE. Peripheral issues, if they occur, should be considered under Importance of Arguments to the Parent's Case. Remember that in order to be an issue, there must be some dispute. For example, if both the parent and the school agree that the child is educable mentally retarded, then classification is not an issue.

83. Classification is the label attached to a child's social, emotional, mental and/or academic development. Examples of this include "normal", "mentally retarded", "educable", "trainable", and "learning disabled". Each classification denotes a current level of performance. Exclusion is also a form of classification, and anything that is scored "yes" in question 86 should also be scored "yes" in this question. If you feel that classification is an issue in the parent's case, score as yes (1), if not, score as no, (0). (see Note 1)

84. Content/Quality. This issue covers both what the program contains and how good it is. Learning materials, support services, proposed course of study, proposed course of therapy, class size, location of program are all included in this issue as well as such quality factors as the background of the staff, the condition of the equipment, and the number of hours spent in the program. Transportation is also a content/quality issue, and anything that is scored "yes" in question 85 should also be scored "yes" in this

question. If you feel that content/quality is an issue in the parent's case, score as yes, (1), if not score as no (0). (see Note 1)

85. The transportation is used when one of the central issues is how the child is going to get to the program. Usually the dispute will center around busing, i.e., the parent will want to know why the school refuses to provide transportation for the child, or how the child is going to be transported to the program. If transportation is an issue in the parent's case, score as yes (1), if not, score as no (0). (see Note 1)

86. Exclusion should be coded as a central issue only when it is directly addressed. Often, you will get a case where the child is not in school and is receiving no educational instruction in the home, but the word exclusion is never mentioned by either party in the hearing. While the child has been excluded, this issue is not being addressed. Code this type of case on the issues being decided, not on the exclusion issue. You will sometimes find a case in which the parent's presentation is largely concerned with refuting the school's case for permanent exclusion under Purdon's statutes. This is what we are considering a case with an exclusion issue. Rate this question as yes (1) or no (0).

87. Quality of parent's presentation.

Select the number on the following scale which most nearly describes the quality of the parent's presentation. (Located on page 24)

88. Effectiveness of parent's questioning: Challanging the school's case.

Select the number on the following scale which most nearly describes the effectiveness of the parent's questioning. (Located on page 25)

Select the number on the scale which most nearly describes the quality of the parents' presentation.

Quality of Parents' Presentation

1. No presentation: The parents misunderstand the purpose of the due process hearing. There is little or no presentation and the parents exhibit a total lack of knowledge of the relevant facts. The hearing becomes a place to clarify parents' confusion and nothing more.

2. Presentation subjectively based: Parents are not well versed in all the issues relevant to their case. Their case relies heavily or exclusively on their own subjective impressions, intentions, needs and desires. No objective evidence such as exhibits or expert witnesses are presented.

3. Presentation objectively based but not adequately supported: Parents are well versed in all the information relevant to the issues contained in their case. The testimony is objective but it is not well presented nor is it particularly well developed. While some exhibits or witnesses may be presented, there is usually a substantial amount (less than ½) of testimony which is unsupported by outside evidence.

4. Presentation objectively based, supported, but not well organized: Parents are well versed in all the information relevant to the issues contained in their case. They present objective evidence or testimony which is backed up by appropriate exhibits and expert witnesses prepared to testify. However, the case is not argued as well as it might be. It is not presented in an organized, logical manner. (Does not meet the organizational standards of #5).

5. Presentation objectively based, supported, and well organized and argued: Parents are well versed in all the information relevant to the issues contained in their case. They present objective evidence of testimony which is backed up by appropriate exhibits and expert witnesses prepared to testify. The case is well organized and has a cohesive, logical framework in which it stands.

   A well organized, logically presented hearing consists of the following components:
   1) Parents' position is clearly stated.
   2) What they are asking for addresses rights guaranteed the child under the Consent Decree.
   3) Parents are able to state clearly why they are challenging the school and why what they are asking for is more appropriate in meeting the exceptionalities of their child.
   4) Parents are able to designate how what they are asking for can be provided. (Either how the public school can meet their demands through a specific program that exists or must be established, or how their demands can only be met by a a private facility.)

   In addition, these components must be related and presented so that each reinforces the other in developing the presentation.

6. In addition to fulfilling all the requirements mentioned in #5, the case addresses a larger framework of social issues and uses these to add additional weight to the case. The parent may question the effects of Special Educational Placement on a child, discuss the inequities of the tracking system, suggest potential damage to a child caused by labeling, or address the issue of stigmatization. The specific theoretical issues which are addressed will depend on the nature of the case.

Select the number on the scale which most nearly describes the quality of the parents' questioning.

Effectiveness of Parents' Questioning: Challenging the School's Case

1. Parents do not question; or question in a self-defeating manner.

2. Parents question, but do not challenge the school's witnesses, evidence, or presentation. They may suggest the evaluation or classification is wrong through the use of random questions, but there is no organized basis to the process and the thrust is primarily subjective.

3. Parents questioning challenges the school's witnesses, evidence or presentation, but without any apparent reference to a coherent orderly framework in which the particular challenges develop an organized thrust. Parents are verging on true cross-examination, but do not consistently achieve it.

4. Parents' cross-examination challenges school's presentation within a coherent narrow framework. The thrust of the cross-examination is used to support for the parent's case. Parents at this point usually begin to question content of the school's proposal as well as address the issue of classification.

5. Parent's cross-examination challenges school's presentation with a coherent, broad framework. Parent challenges school's facts, classification, program content, and the quality of the proposed program. Cross-examination is coherently presented as an adjunct to the original presentation and greatly enhances the parent's case.

6. In addition to the criteria established in #5, the cross-examination is used to challenge the whole approach of the school on the basis of the broader theoretical issues of Special Education which are relevant to the particular case.

(see Note 2)

509. Degree to which demands of parents tax school resources.

89. Program location. In this question, we want to know where the program the parents are requesting for the child is located, if it presently exists, or if the parents are asking the school to set up a new program for the child. Choose the best single response from 0-4 listed below:

0 Not relevant. The parents are asking for exclusion or homebound or there is no indication of what they are requesting.

1 Program exists in the school district.

2 Program exists in the intermediate unit or in a state facility.

3 Program exists in a private facility.

4 Program does not exist anywhere (the parents are asking the district to set up a new program for the child).

90. In this question, we want to know if transportation exists to the program the parent is requesting for the child. Choose the best single response from 0-3 listed below:

0 Not relevant

1 Readily available

2 Available but inconvenient (an example of this would be a situation in which the school would have to reroute a school bus to pick up the child).

3 Not available (an example of this would be a situation in which the school says there is no bus available for the child and the parent is asking the school to provide one).

91. In this question, we want to know if support services which the parent requests as part of the child's program are available. Choose the best single response from 0-3 listed below:

0 Not needed (or not requested by parents)

1 Readily available

2 Partially available or infrequent

3 Not available (parents are asking district to create support services which do not presently exist).

HEARING OFFICER DATA

92. Hearing officer affiliation. This information is found in Appendix 3, Right to Education Hearing Officers. Should you find a hearing officer who is not listed on this sheet, make a note of the name and the affiliation on the front cover of the rating instrument. If the name is listed but you are unable to find the affilition, note this on the front cover of the rating instrument.

93. In answering this and the following questions, you may find it helpful to read the hearing officer's statements separately from the rest of the case. Sometimes, especially when there are two attorneys and a host of witnesses, it is easy to forget who is actually doing most of the questioning. In order to receive credit on this question, the hearing officer must actually run the hearing and do most of the questioning. If he is passive and allows the lawyers or anyone else to elicit the needed information, then this should be scored as no (0).

510. Degree to which the hearing officer adheres to the requirements of the consent decree.

94. Appeals procedure is a process set up by the state which allows either the parent or the school to appeal the hearing officer's decision if they are not satisfied with the deposition of the case. If the hearing officer mentions that such a procedure exists, you may score this as yes (1). If he does not, score as no (0).

95. Cross-examination is "the examination of a witness upon a hearing by the party opposed to the one who produced him, upon his evidence given in chief, to test its truth, to further develop it, or for other purposes".*

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*Black's Law Dictionary

If the hearing officer ALWAYS allows this type of pointed questioning throughout the hearing, score as yes (1). If at any point he attempts to stop this or says that he cannot allow this, score as no (0). (see Note 3)

96. Remember, if an inquiry into the quality of the evaluation is conducted by an attorney, the hearing officer SHOULD NOT get credit for this. The hearing officer himself must inquire into the need for the proposed change. If he does, score as yes (1), if not score as no (0).

97. A prescription is a description of what the child needs. If the school has not prepared a prescription, then the hearing officer should be making very serious attempts to find out what the child needs. If he repeatedly trys but fails, he should be given credit on this question. If the school has prepared a prescription, the hearing officer should be asking some questions in regard to how this prescription follows from the evaluation. In those cases where the school's presentation makes this correlation clear, he would not need to inquire a great deal, but he must ask at least one question about the fit between the evaluation and the prescription in order to get credit for this question. If he does this, score as yes (1), if not score as no (0). (see Note 4)

98. A program is a specific recommendation for a course of study or therapy. The hearing officer should question the items included in the proposed program in terms of how adequately they reflect the child's needs as defined in the prescription. If he does this on even a limited basis, score as yes (1). If does not do this at all, score as no (0).

99. Normalization means approaching the norm. Ideally, it means placing the child in a regular classroom. When this is not practical, it means placing the child in the highest possible appropriate educational setting. In other words, if a child cannot function in a normal classroom for all of his academic subjects but there is some indication that he/she could do normal math, then the most normalizing placement for the child might be

Educable Mentally Retarded with normal math. The hearing officer should address himself to the possibility of placing the child in the highest possible placement in which he/she can function presently, or, if appropriate, in the future. If he does this, score as yes (1), if not score as no (0).

511. Degree to which the hearing officer attempts to run an impartial hearing. Each of the following questions is to be rated twice. Once as yes (1) or no (0), and a second time on a scale which is designed to show if the hearing officer is biased for or against a particular party to the hearing. The bias is to be rated as follows:

1 Totally biased toward the school (the hearing officer blatently and systematically ignores the parents arguments and/or actively attacks their position. He also systematically reinforces the school's case).

2 Leaning toward the school (the hearing officer unwarrentedly reinforces the schools case by making more than reasonably necessary inquiries or he unwarrentedly attacks the parents position or witnesses on at least one occasion).

3 Impartial (the hearing officer does everything that is needed to make sure that both sides have an equal opportunity to be heard and makes impartial inquiries when needed to bring out all the issues).

4 Leaning toward the parent (the hearing officer unwarrentedly reinforces the parent's case by making more than reasonably necessary inquiries or he unwarrentedly attacks the school's position or witnesses on at least one occasion).

5 Totally biased toward the parents (the hearing officer blatently and systematically ignores the school's arguments and/or actively attacks their position. He also systematically reinforces the parent's case).

100. Arguably relevant testimony is that which may or may not have bearing on the case at hand. For example, suppose that Mrs. Brown at the hearing for her son Jimmy begins to testify as to the problems her daughter Jill has had since being enrolled in a special class. This may or may not be relevant to Jimmy's case, but unless the hearing officer is willing to

hear Mrs. Brown's testimony, how can he tell for sure? If he cuts the witness short and does not allow her to finish giving testimony, then he is refusing to admit arguably relevant testimony and this should be coded as yes (1). He allows the witness to finish testifying, then this should be scored as no, (0). If the hearing officer cuts Mrs. Brown off repeatedly when she is giving arguably relevant testimony (remember if the material is completely irrelevant it should not be considered in terms of this question), but never interferes with the school's presentation (assuming that they also include arguably relevant material) then the hearing officer is showing a bias toward the school. The extent to which he does this will determine whether this bias is termed "leaning toward the school" or "totally biased toward the school". If you feel that the hearing officer refuses to admit arguably relevant testimony or that he is showing a bias toward one side or the other, you should note down page numbers of such occurrences where ever possible. It will be of some help to the verifier and will also make it easier for you to remember your position on the case should a conference be necessary. (Verifiers who spot bias should do the same thing).

101. Discrediting or attempting to discredit the status of a witness is nearly always a very subtle thing. The hearing officer may ask a series of pointed questions about the qualifications of the witness and then through silence or through his responses to the witness's testimony indicate to the reader that somehow the witness has been found wanting in some important (but not specifically defined) area. It may also be more blatent. The hearing officer may say "I don't think you are qualified to speak on this subject". It is important for you to remember that this as well as the previously question can be done impartially. The hearing officer may attempt to discredit the status of any witness that he feels is not qualified to

speak about the matter at hand. IF HE DOES THIS ONLY WITH THE WITNESSES FOR ONE PARTY, AND OFTEN APPEARS TO BE "NITPICKING" THEN HE IS SHOWING BIAS. If the hearing officer attempts to discredit the status of any witness, score as yes(1), if not score as no (0).

102. Expressing doubts about admissibility is normally a fairly straight-forward procedure. The parent or the school will produce an exhibit or some testimony and the hearing officer will say (more or less), "well, I don't know if we can allow that, but . . .". If he admits evidence after expressing such doubts, score as yes (1), if not, score as no (0). This should also be scored as no if the situation does not arise. Again, this can be done impartially. The bias factor only enters into this if the hearing officer repeatedly expresses doubts about admissibility for one side but not for the other.

103. BE CAREFUL. THIS QUESTION IS TRICKY. We want to know what the hearing officer does if either the parent or the school makes a remark which requires clarification. We also want to know if he or she makes reasonably necessary responses to the parent's and school's statements. Here is an example of how a good hearing officer might do this:

> SCHOOL PSYCHOLOGIST: The chronology of events would be, in the summer the school district made a census and the child's name turned up on the census that the school district conducted. This was sent to the intermediate unit, along with some other children.
>
> HEARING OFFICER: What do you mean by census?
>
> SCHOOL PSYCHOLOGIST: The school census, an enumeration.
>
> HEARING OFFICER: Jimmy was identified, in what sense was he identified?
>
> SCHOOL PSYCHOLOGIST: Jimmy was identified as probably being an exceptional child and most likely retarded.

If the hearing officer makes this type of inquiry most of the time (over 70%) when it is necessary to clarify or to respond to statements made by the school and/or the parent, this question should be answered yes (1). If he does not do this, or if he or she does it infrequently, code as no (0). When statements or inquiries are necessary to clarify or respond to statements made by both the parent and the school, the hearing officer should be doing this for both sides. Otherwise, he or she may be exhibiting bias. (see Note 5)

104. This question is closely related to the previous one and also requires some care in coding. In this question we want to know if the hearing officer makes sure that the parent's and the school's stories come out completely. In the following example, the hearing officer is attempting to find out what the parents want for their child:

> HEARING OFFICER: You are thinking that a small class is good for him?
>
> MOTHER: I do.
>
> HEARING OFFICER: And you see that important things are happening to him that you like?
>
> MOTHER: Very much so.
>
> HEARING OFFICER: But the problem for you is the length of time?
>
> MOTHER: To get as much as we can for him. Frankly, we would like a longer day.
>
> HEARING OFFICER: You are not petitioning for him to go to the other class?
>
> MOTHER: No, by no means.

If the hearing officer makes WHATEVER INQUIRIES ARE NECESSARY to make sure that the stories of both parties come out completely, this should be coded as yes (1). If he does not do this, code as no (0). If the hearing officer does this only for one side, even though it is needed for both, consider the possibility of bias, but still code this as yes.

105. Do not assume that anger, impatience or sarcasm necessarily implies

bias. It is possible to be impartially angry with both parties at the hearing. If you feel that the hearing officer does show anger, impatience or sarcasm, code as yes (1). If not, code as (0), no. If the hearing officer does this only toward one side, consider the possibility of bias.

Importance of arguments to the school's case. Each of the applicable arguments is to be rated twice, once by number and once in rank order. It is important to remember that in order to be rated at all, the argument MUST BE EXPLICITLY STATED. For example, in any case in which the school is requesting continuance in present placement for the child, there is the implicit assumption that the present placement is the most suitable. DO NOT, however, code this as an argument unless this is EXPLICITLY stated by the school. Also, remember that the argument must be important to the case if it is included on this sheet. It must either add something to the school's presentation or be used to clarify or to support the major issues of the case. IF IT DOESN'T DO THIS, DON'T CODE IT.

When coding this section, first decide which arguments were relevant to the school's case and then place the three digit argument number to the right under Arg. #. After doing this, decide how important the argument was to the case. If it was the most important argument used by the school, rank order as 1. If two arguments are of equal importance, it is permissible to give them both the same rank order. Code as many arguments as you feel are needed to adequately describe the school's position. If the specific argument used is not listed, write in as "other" under the appropriate heading.

Importance of arguments to parent's case. Use the procedure outlined above under Importance of arguments to school's case. (see Note 6)

NOTES TO CODING MANUAL

1. pp. 10 & 11, 22 & 23. Questions 32-35 & 83-86. Issues. In coding central issues, we coded only those which were explicitly stated in the case. We felt that by doing this, we could avoid the problems which could arise from an over-reading of nuances and subtle references. For example, a case in which the central issue is classification may use content/quality factors to support the main issue. Content/quality would not be a central issue, and in many cases it would be addressed implicitly rather than explicitly. In this type of situation, there could be some confusion over whether or not to code content/quality as an issue unless it is made clear that only explicit issues are to be coded.

2. p. 25. Question 88. Effectiveness of parent's questioning. part 4. We do not mean that content questions cannot occur before this point. Often, they do. What we are suggesting is that in a classification case questioning about the content of the program the school is proposing usually appear at this point. The parents will cross-examine the school on program content in an effort to prove that their proposal is more appropriate than the school's. In other words, by tearing down the school's case, they enhance their own.

3. p. 28. Question 95. Does Hearing officer allow cross-examination?

In defining cross examination and certain other terms used in our coding, (see legal glossary on p.39), we took a strict legal definition and interpretation. For example, the reason why the definition is so strict in this question is because we felt that if a hearing officer blocked a rambling series of questions which did not appear to have a coherent underlying purpose, this might or might not be an example of adhering to the requirements of the consent agreement. However, if even once he or she blocked a true cross-examination, he or she was overstepping the limits of the role. We felt that all cross-examinations should be heard before the hearing officer decided the facts of the case.

4. P. 28. Question 97. Does the hearing officer inquire into the fit between evaluation and prescription? The amount of questioning the hearing officer is required to do in any given hearing depends, of course, on the preparation done by both sides and how well they present their case. However, we felt that even in a perfect case in which both sides were very well prepared, there is bound to be some point about the fit between evaluation and prescription which is not touched on. We have not as yet seen the case which is so perfect that there is not some point that the hearing officer should attempt to clarify.

5.p. 31 32. Question 103. Does hearing officer make necessary responses to parents and school's statements? In this question we are talking about a series of questions or statements that would occur over the course of the hearing. We wanted to know if the hearing officer was picking up ambiguities and clearing up vague remarks if and when they occurred. We felt that he should be doing this well over half the time in order to get credit on this (this is why we established 70% as the amount).

6. p. 32-33. Question 104. Does the hearing officer make inquiries necessary to assure that the stories of both parties come out completely? We could not establish criteria such as 70% for this question as we could the last one. This is the type of thing that is either done or not done. While in the last question, we were concerned with a series of remarks or questions, in this one we are concerned with the overall case.

GLOSSARY

BROAD - Covering a wide scope. For example, a broad evaluation must include, in addition to an IQ, at least an emotional evaluation, a test of social adjustment and maturation, and a test of motor development. An assessment which covers more than the traditional measures of intellectual development.

CLASSIFICATION - Label attached to a child's social, emotional, and/or mental development. Examples of this include "normal", "mentally retarded", "educable", "trainable", etc. Each classification denotes an expected level of performance and potential development for the child.

CONTACT - More than a phone call to set up an appointment. Meaningful discussion of the case must have occurred. If repeated attempts to secure meaningful discussion without success are in evidence, this may be considered contact. This contact does not have to include a written evaluation.

CONTENT - What the program contains. Specifically, does it have what the child needs. Learning materials, support services, such as speech therapy, and proposed course of study are considered part of the content.

CROSS-EXAMINATION - The examination of a witness upon a hearing by the party opposed to the one who produced him/her, upon his/her evidence given in chief, to test its truth, to further develop it, or for other purposes.

EVALUATION GOTTEN - Person submits written exhibit or appears as expert witness.

EXAMINATION - A series of questions put to the witness by a party to the action, his/her counsel or the hearing officer for the purpose of bringing before the hearing officer the knowledge which the witness has of facts and matters in dispute.

EXPERT WITNESS - One skilled in any particular art, trade, or profession, being possessed of peculiar knowledge concerning the same, and one who has given subject in question particular study, practice, or observation.

FLEXIBLE - The preconceived set of rules or ideas may be altered to allow for individual differences and the varied needs of each member of the student population.

NARROW - Restricted in scope. For example, a narrow evaluation would be one which consisted of IQ tests alone. No matter how many there are, if this is all that the record contains, the evaluation is narrow.

NORMALIZATION - Approaching the norm. Ideally, it means placing a child in a regular classroom. When this is not practical, it means placing a child in the highest possible appropriate educational setting.

OBSERVER - One who is present at a hearing but does not testify.

PRESCRIPTION - This is not a program. Prescription is an appraisal of what the child needs. While the program should follow from this evaluation, it does not in all cases.

PROGRAM - A specific recommendation or a course of therapy or study.

QUALITY - This could be considered a refinement of content. If the proposed course of study and the support services, etc., are considered satisfactory, then the parent may validly question, for example, the background of the staff, the condition of the equipment, the number of hours spent in the program, or the location of the classroom. These are quality issues. They may occur combined with content and classification issues, or they may be spearate.

RE-CROSS - An examination of a witness after a re-examination upon matters arising out of such re-examination.

RE-EXAMINATION - An examination of a witness after a cross-examination upon matters arising out of such cross-examination.

RIGID - Strictly according to a preconceived or preplanned set of ideas or rules. Virtually no allowance is made for individual differences.

SELF-DEFEATING - Parents' questions bring out a reiteration of damaging testimony or bring out facts counter to the issues the paretns want to bring out.

WITNESS - One who gives evidence. Includes all persons from whose lips testimony is extracted to be used in the hearing.

APPENDIX 1

Alphabetical listing of school systems operating under a district superintendent and, in parenthesis, the intermediate unit to which the school system is assigned.

ID#	SCHOOL SYSTEM	IU	CENSUS & SES
1	Abington	23	2
2	Abington Heights	19	2
3	Albert Gallatin Area	1	3
4	Aliquippa Borough	27	2
5	Allegheny-Clarion Valley	6	3
6	Allegheny Valley	3	2
7	Allentown City	21	1
8	Altoona Area	8	1
9	Ambridge Area	27	2
10	Annville-Cleona	13	3
11	Antietam	14	2
12	Apollo-Ridge	28	3
13	Armstrong	28	3
14	Athens Area	17	3
15	Austin Area	9	3
16	Avella Area	1	2
17	Avon-Grove	24	2
18	Avonworth	3	2
19	Babcock	3	2
20	Bald Eagle Area	10	3
21	Baldwin-Whitehall	3	2
22	Bangor Area	20	2
23	Beaver Area	27	2
24	Big Beaver Falls Area	27	2
25	Bedford Area	8	3
26	Bellefonte Area	10	3
27	Belle Vernon Area	7	2
28	Bellwood-Antis	8	2
29	Bensalem Township	22	2
30	Benton Area	16	3
31	Bentworth	1	2
32	Berlin Brothers/valley	8	2
33	Bermudian Springs	12	2
34	Berwick Area	16	3
35	Bethel Park	3	2
36	Bethlehem Area	20	1
37	Bethlehem-Center	1	2
38	Big Spring	15	2
39	Blackhawk	27	2
40	Blacklick Valley	8	2
41	Blairsville-Saltsburg	28	3
42	Bloomsburg Area	16	3
43	Blue Mountain	29	3
44	Blue Ridge	19	2
45	Boyertown Area	14	2
46	Bradford Area	9	3
47	Brandywine Heights Area	14	2
48	Brentwood Borough	3	2
49	Bristol Borough	22	2
50	Bristol Township	22	2
51	Brockway Area	6	3
52	Brookville Area	6	3
53	Brownsville Area	1	3
54	Burgettstown Area	1	2
55	Burrell	7	2
56	Butler Area	4	3
57	California Area	1	2
58	Cambria Heights	8	2
59	Cameron County	9	3
60	Camp Hill	15	2
61	Canon-McMillan	1	2
62	Canton Area	17	3
63	Carbondale Area	19	2
64	Carlisle Area	15	2
65	Carlynton	3	2
66	Carmichaels Area	1	3
67	Catasauqua Area	21	2
68	Centennial	22	2
69	Center Area	27	2
70	Central Bucks	22	2
71	Central Cambria	8	2
72	Central Columbia	16	3
73	Central Dauphin	15	2
74	Central Fulton	11	3
75	Central Greene	1	3
76	Central York	12	2
77	Chambersburg Area	12	3
78	Charleroi Area	1	2
79	Chartiers-Houston	1	2
80	Chartiers Valley	3	2
81	Cheltenham Township	23	2
82	Chester-Upland	25	2
83	Chestnut Ridge	8	3
84	Chichester	25	2
85	Churchill Area	3	2
86	Clarion Area	6	3
87	Clarion-Limestone	6	3
88	Clairton City	3	2
89	Claysburg-Kimmel	8	2
90	Clearfield Area	10	3
91	Coatesville Area	24	2
92	Cocalico	13	2
93	Colonial	23	2
94	Columbia Borough	13	2
95	Commodore Perry	4	3
96	Conemaugh Township	8	2
97	Conemaugh Valley	8	2
98	Conestoga Valley	13	2
99	Conewago Valley	12	2
100	Conneaut	5	3

1= Urban District
2= Suburban District
3= Rural District

ID#	SCHOOL SYSTEM	IU	CENSUS & SES
101	Connellsville Area	1	3
102	Conrad Weiser Area	14	2
103	Cornwall-Lebanon	13	2
[illegible]	Cornell	3	2
105	Corry Area	5	2
106	Coudersport Area	9	3
107	Council Rock	22	2
108	Cranberry Area	6	3
109	Crawford Central	5	3
[illegible]	Crestwood	18	2
111	Cumberland Valley	15	2
112	Curwensville Area	10	3
113	Dallas	18	2
114	Dallastown Area	12	2
115	Daniel Boone Area	14	2
116	Danville Area	16	3
117	Deer Lakes	3	2
118	Delaware Valley	20	3
119	Derry Area	7	2
120	Derry Township	15	2
121	Donegal	13	2
122	Dover Area	12	2
123	Downington Area	24	2
124	DuBois Area	6	3
125	Dunmore	19	2
126	Duquesne City	3	2
127	East Allegheny	3	2
128	Eastern Lancaster County	13	2
129	Eastern Lebanon County	13	3
130	Eastern York	12	2
131	East Lycoming	17	3
132	Easton Area	20	1
133	East Penn	21	2
134	East Pennsboro Area	15	2
135	East Stroudsburg Area	20	3
136	Edgewood	3	2
137	Elizabeth Forward	3	2
138	Elizabethtown Area	13	2
139	Elk Lake	19	2
140	Ellwood City Area	4	3
141	Ephrata Area	13	2
142	Erie City	5	1
143	Everett Area	8	3
144	Exeter Township	14	2
145	Fairfield Area	12	2
146	Fairview	5	2
147	Fannett-Metal	12	2
148	Farrell Area	4	2
149	Ferndale Area	8	2
150	Fleetwood Area	14	2
151	Forbes Road	11	3
152	Forest Area	6	3
153	Forest City Regional	19	2
154	Forest Hills	8	2
155	Fort Cherry	1	2

ID#	SCHOOL SYSTEM	IU	CENSUS & SES
156	Fort LeBoeuf	5	2
157	Fox Chapel Area	3	2
158	Franklin Area	6	3
159	Franklin Regional	7	2
160	Frazier	1	3
161	Freedom Area	27	2
162	Freeport Area	28	3
163	Galeton Area	9	3
164	Garnet Valley	25	2
165	Gateway	3	2
166	General Braddock Area	3	2
167	General McLane	5	2
168	Gettysburg Area	12	2
169	Girard	5	2
170	Glendale	10	3
171	Governor Mifflin	14	2
172	Greater Johnstown	8	2
173	Greater Latrobe	7	2
174	Greater Nanticoke Area	18	2
175	Great Valley	24	2
176	Greencastle-Antrim	12	3
177	Greensburg Salem	7	2
178	Greenville Area	4	3
179	Greenwood	15	2
180	Grove City Area	4	3
181	Halifax Area	15	2
182	Hamburg Area	14	2
183	Hampton Township	3	2
184	Hanover Area	18	2
185	Hanover Public	12	2
186	Harbor Creek	5	2
187	Harmony	10	3
188	Harrisburg City	15	1
189	Hatboro-Horsham	23	2
190	Haverford Township	25	2
191	Hazelton Area	18	1
192	Hempfield	13	2
193	Hempfield Area	7	2
194	Hickory Township	4	3
195	Highlands	3	2
196	Hollidaysburg Area	8	2
197	Homer-Center	28	3
198	Hopewell Area	27	2
199	Huntingdon Area	11	3
200	Indiana Area	28	3
201	Interboro	25	2
202	Iroquois	5	2
203	Jamestown Area	4	3
204	Jeannette City	7	2
205	Jefferson-Morgan	1	3
206	Jenkintown	23	2
207	Jersey Shore Area	17	3
208	Jim Thorpe Area	21	3
209	Johnsonburg Area	9	3
210	Juniata County	11	3

ID#	SCHOOL SYSTEM	JU	CENSUS & SES
11	Juniata Valley	11	3
12	Kane Area	9	3
13	Karns City Area	4	3
14	Kennett Consolidated	24	2
15	Keystone	6	3
[illegible]	Keystone Central	10	3
17	Keystone Oaks	3	2
18	Kiski Area	7	2
19	Kutztown Area	14	2
20	Lackawanna Trail	19	3
21	Lakeland	19	2
[illegible]	Lake-Lehman	18	2
3	Lakeview	4	3
4	Lampeter-Strasburg	13	2
25	Lancaster	13	1
26	Laurel	4	3
27	Laurel Highlands	1	3
[illegible]	Lebanon	13	3
29	Leechburg Area	28	3
30	Lehighton Area	21	3
31	Lewisburg Area	16	3
32	Ligonier Valley	7	2
233	Line Mountain	16	3
234	Littlestown Area	12	2
235	Lower Dauphin	15	2
36	Lower Merion	23	2
37	Lower Moreland Township	23	2
8	Loyalsock Township	17	3
[illegible]	Mahoney Area	29	3
240	Manheim Central	13	2
241	Manheim Township	13	2
242	Marion Center Area	28	3
243	Marple Newtown	25	2
244	Mars Area	4	3
[illegible]	McGaffey	1	2
246	McKeesport Area	3	2
[illegible]	Mechanicsburg Area	15	2
248	Mercer Area	4	3
249	Methacton	23	2
50	Meyersdale Area	8	2
[illegible]	Middletown Area	15	2
252	Midd-West	16	3
253	Midland Borough	27	2
254	Mid Valley	19	2
255	Mifflinburg Area	16	3
256	Mifflin County	11	3
[illegible]	Millcreek Township	5	2
258	Millersburg Area	15	2
259	Millville Area	16	3
260	Milton Area	16	3
261	Minersville Area	29	3
262	Mohawk Area	4	3
[illegible]	Monaca	27	2
264	Monessen City	7	2
265	Moniteau	4	3
266	Montgomery Area	17	3
267	Montour	3	2
268	Montoursville Area	17	3
269	Montrose Area	19	2
270	Moon Area	3	2
271	Morrisville Borough	22	2
272	Moshannon Valley	10	3
273	Mountain View	19	2
274	Mount Carmel Area	16	3
275	Mount Pleasant Area	7	2
276	Mount Union Area	11	3
277	Mount Lebanon	3	2
278	Muhlenberg Township	14	2
279	Muncy	17	3
280	Nazareth Area	20	2
281	Neshaminy	22	2
282	Neshannock Township	4	3
283	New Brighton Area	27	2
284	New Castle Area	4	3
285	New Hope-Solebury	22	2
286	New Kensington-Arnold	7	2
287	Newport	15	2
288	Norristown Area	25	2
289	North Allegheny	3	2
290	Northgate	3	2
291	Northampton Area	20	2
292	North Clarion County	1	3
293	North East	5	2
294	Northeast Bradford	17	3
295	Northeastern Beaver Co.	27	2
296	Northeastern School Dist. of York Co.	12	2
297	Northern Bedford County	8	3
298	Northern Cambria	8	2
299	Northern Lebanon	13	3
300	Northern Lehigh	21	2
301	Northern Potter	9	3
302	Northern Tioga	17	3
303	Northern York County	15	2
304	North Hills	3	2
305	North Penn	23	2
306	North Pocono	19	2
307	North Schuylkill	29	3
308	North Star	8	2
309	Northwest Area	18	2
310	Northwestern	5	2
311	Northwestern Lehigh	21	2
312	Norwin	7	2
313	Octorara Area	24	2
314	Oil City Area	6	3
315	Old Forge	19	2
316	Oley Valley	14	2
317	Oswayo Valley	9	3
318	Otto-Eldred	9	3
319	Owen J. Roberts	24	2
320	Oxford Area	24	2
321	Palisades	22	2
322	Palmerton Area	21	3
323	Palmyra Area	13	3
324	Panther Valley	21	3
325	Parkland	21	2
326	Pen Argyl Area	20	2
327	Penn-Cambria	8	2
328	Penncrest	5	3
329	Penn-Delco	25	2
330	Penn Hills Township	3	2

ID#	SCHOOL SYSTEM	IU	CENSUS & SES
	Penn Manor	13	2
32	Pennridge	22	2
33	Pennsbury	22	2
34	Penns Manor Area	28	3
35	Penns Valley Area	10	3
36	Penn-Trafford	7	2
37	Pequea Valley	13	2
38	Perkiomen Valley	23	2
39	Peters Township	1	2
40	Philadelphia City	26	1
	Philipsburg-Osceola Area	10	3
	Phoenixville Area	24	2
43	Pine Grove Area	29	3
44	Pittsburgh	2	1
45	Pittston Area	18	2
46	Pleasant Valley	20	3
47	Plum Borough	3	2
	Pocono Mountain	20	3
49	Portage Area	8	2
50	Port Allegheny	9	3
51	Pottsgrove	23	2
52	Pottstown	23	2
53	Pottsville Area	29	3
	Punxsutawney Area	6	3
55	Purchase Line	28	3
56	Quakertown Community	22	2
57	Quaker Valley	3	2
58	Radnor Township	25	2
59	Reading	14	1
	Redbank Valley	6	3
61	Red Lion Area	12	2
62	Reynolds	4	3
63	Richland	8	2
64	Ridgway Area	9	3
65	Ridley	25	2
	Ringgold	1	2
67	Riverside	19	2
68	Riverview	3	2
69	Rochester Area	27	2
70	Rockwood Area	8	2
71	Rose Tree Media	25	2
72	Saint Clair Area	29	3
73	Salisbury-Elk Lick	8	2
74	Salisbury Township	21	2
75	Saucon Valley	20	2
76	Sayre Area	17	3
	Schuylkill Haven Area	29	3
78	Schuylkill Valley	14	2
79	Scranton City	19	1
80	Selinsgrove Area	16	3
81	Shade-Central City	8	2
82	Shaler Area	3	2
	Shamokin Area	16	3
84	Shanksville-Stonycreek	8	2
85	Sharon City	4	3
86	Sharpsville Area	4	3
87	Shenandoah Valley	29	3
88	Shenango Area	4	3
	Shikellamy	16	3
90	Shippensburg Area	15	2

ID#	SCHOOL SYSTEM	V-45 IU	CENSUS & SES
391	Slippery Rock Area	4	3
392	Smethport Area	9	3
393	Solanco	13	2
394	Somerset Area	8	2
395	Souderton Area	23	2
396	South Allegheny	3	2
397	South Butler County	4	3
398	Southest Delco	25	2
399	South Eastern	12	2
400	Southeastern Greene	1	3
401	Southern Columbia Area	16	3
402	Southern Fulton	11	3
403	Southern Huntingdon County	11	3
404	Southern Lehigh	21	2
405	Southern Tioga	17	3
406	Southern York County	12	2
407	South Fayette Township	3	2
408	South Middleton	15	2
409	Southmoreland	7	2
410	South Park	3	2
411	South Side Area	27	2
412	Southwest Butler County	4	3
413	South Western	12	2
414	South Williamsport Area	17	3
415	Spring Cove	8	2
416	Springfield	25	2
417	Springfield Township	23	2
418	Spring Ford Area	23	2
419	Spring Grove Area	12	2
420	State College Area	10	3
421	Steelton-Highspire	15	2
422	Steel Valley	3	2
423	St. Mary's Area	9	3
424	Sto-Rox	3	2
425	Stroudsburg Area	20	3
426	Sullivan County	17	3
427	Susquehanna Community	19	2
428	Susquehanna Township	15	2
429	Susquenita	15	2
430	Swissvale Area	3	2
431	Tamaqua Area	29	3
432	Titusville Area	6	3
433	Towanda Area	17	3
434	Tredyffrin-Easttown	24	2
435	Trinity Area	1	2
436	Tri-Valley	29	3
437	Troy Area	17	3
438	Tulpehocken Area	14	2
439	Tunkhannock Area	18	3
440	Turkeyfoot Valley Area	8	2
441	Turtle Creek Area	3	2
442	Tuscarora	12	3
443	Tussey Mountain	8	3
444	Twin Valley	14	2
445	Tyrone Area	8	2
446	Union	6	3
447	Union Area	4	3
448	Union City Area	5	2
449	Uniontown Area	1	3
450	Unionville-Chadds Ford	24	2

ID#	SCHOOL SYSTEM	JU	CENSUS & SES
451	United	28	3
452	Upper Adams	12	2
453	Upper Darby	25	2
454	Upper Dauphin Area	15	2
455	Upper Dublin	23	2
456	Upper Merion Area	23	2
457	Upper Moreland Township	23	2
458	Upper Perkiomen	23	2
459	Upper St. Clair Township	3	2
460	Valley Grove	6	3
461	Valley View	19	2
462	Wallenpaupack Area	19	3
463	Wallingford Swarthmore	25	2
464	Warren County	5	3
465	Warrior Run	16	3
466	Warwick	13	2
467	Washington	1	2
468	Wattsburg Area	5	2
469	Wayne Highlands	19	3
470	Waynesboro Area	12	3
471	Weatherly Area	21	3
472	Wellsboro Area	17	3
473	West Allegheny	3	2
474	West Branch Area	10	3
475	West Chester Area	24	2
476	Western Beaver County	27	2
477	Western Wayne	19	3
478	West Greene	1	3
479	West Jefferson Hills	3	2
480	West Middlesex Area	4	3
481	West Mifflin Area	3	2
482	Westmont Hilltop	8	2
483	West Perry	15	2
484	West Shore	15	2
485	West York Area	12	2
486	Whitehall-Coplay	21	2
487	Wilkes-Barre Area	18	1
488	Wilkinsburg Borough	3	2
489	William Penn	25	2
490	Williamsburg Community	8	2
491	Williamsport Area	17	3
492	Williams Valley	29	3
493	Wilmington Area	4	3
494	WIlson	14	2
495	Wilson Area	20	2
496	Windber Area	8	2
497	Wissahickon	23	2
498	Wyalusing Area	17	3
499	Wyoming Area	18	2
500	Wyoming Valley West	18	2
501	Wyomissing Area	14	2
502	York City	12	1
503	York Suburban	12	2
504	Yough	7	2

APPENDIX 2

PLACEMENT DATA

Program Levels

00 Not yet school age

1.0 Classroom for normal children (grade level appropriate to age)
1.1 Classroom for normal children (repeated once)
1.2 Classroom for normal children (repeated twice)
1.3 Classroom for normal children (grade repeated in the past)

2.0 Junior or transitional classroom

3.0 Learning disabled (LD)
3.1 Classroom for dyslexic and similar motor handicaps
3.2 Brain injured
3.3 Socially and emotionally disturbed (SED)
3.4 Blind
3.5 Deaf
3.6 Normal classroom for physically handicapped
3.7 Educable mentally retarded (EMR)
3.8 Retarded-Emotionally disturbed (RED)
3.9 Normal and EMR classroom for crippled and physically handicapped

4.0 EMR-TMR combined program

5.0 Trainable mentally retarded (TMR)
5.1 Trainable mentally retarded-multiple handicapped

6.0 Special education programs for low trainable-custodial children
6.1 Special education programs for low trainable-custodial children with multiple handicaps

7.0 Programs for severely and profoundly retarded children
7.1 Programs for severely and profoundly retarded children with multiple handicaps

8.0 Temporary homebound instruction for retarded
8.1 Permanent homebound instruction for retarded

9.0 Exclusion
9.1 At home, awaiting placement, no instruction being given

PLACEMENT DATA

Facility

0 None

1 Public school classroom in building with regular classes

2 Public school classroom, building not specified

3 Public school classroom in special education building

4 Intermediate Unit classroom in building with regular classes

5 Intermediate Unit classroom in special education building (including churches and other non-school buildings)

6 Private facility

7 State facility

Special Services

0 None

1 Speech correction and/or therapy

2 Hearing problems

3 Visual problems

4 Resource room

5 Prevocational or vocational training

6 Physical therapy

7 School counseling

8 Remedial math

9 Remedial reading

10 General special services (exact nature unspecified in transcript)

11 Adaptive physical education

12 Tutorial assistance

13 Additional hours of instruction

14 Behavior modification provided by school

15 Sensory training

16 Self-help skills

17 Psychiatric treatment

18 Family therapy

19 Itinerant services

RIGHT TO EDUCATION - HEARING OFFICERS

ID #	NAME	AFFILIATION	ID#	NAME	AFFILIATION
1	Artman, Miss Betty Lou	1	23	Tekavec, Mr. Edward	2
2	Beneze, Miss Marie	1	29	Todd, Miss Anna Mae	1
3	Bonfield, Dr. John R.	1	30	Vayda, Dr. Kenneth	3
4	Bonnett, Mr. Earl E.	2	31	Young, Dr. Earl B.	3
5	Brislin, Mr. Joseph	2	32	Powell, Lafayette	1
6	Craig, Mr. Thomas M.	2	33	Crandovic, Margaret	3
7	Dishong, Mr. Berlie E.	3	34	Chapman, Robert	1
8	Echenhofer, Mrs. Margaret	1	35	Miller, Earl	2
9	French, Dr. Joseph L.	3	36	Falcon, Kenneth	2
10	Gable, Mrs. Carolyn	3	37	Mullan, Peggie	2
11	Gorlow, Dr. Leon	3	38	Beck, Joan	2
12	Hay, Miss Marie	2			
13	Henry, Mrs. Joan	1			
14	Karpinski, Dr. Andrew J.	3			
15	Kettering, Dr. Richard	3			
16	Marziano, Mr. Robert S.	1			
17	McLaughlin, Dr. John	3			
18	Moore, Mr. Edmund	1			
19	Murphy, Dr. Laura W.	2			
20	Myers, Dr. Richard	3			
21	Redfern, Mr. Carroll	3			
22	Reifer, Mr. James	3			
23	Rocereto, Miss Gloria	3			
24	Scott, Mr. James	1			
25	Sherr, Dr. Richard D.	2			
26	Stephens, Dr. Will Beth	3			
27	Stich, Dr. Thomas	3			

CODE

1=School district

2=Intermediate Unit

3=College or University

APPENDIX 3

HEARING OFFICER'S RECOMMENDATIONS

Placement Data

Questions 201, 202, and 203 each consist of two separate items which can be found in Appendix 2, Placement Data. The first of these items, program level, is the specific program which is being requested by either the parent or the school or the hearing officer. 1.0 to 1.3 are designations which should be used if any of the parties are requesting placement in a classroom for normal children. For example, if the child is currently repeating second grade for the first time and the parent is requesting continuance in present placement, question 201 (level) would be coded as 1.1, Classroom for normal children (repeated once). If the school is requesting placement in an Educable mentally retarded class, question 202 (level) would be coded as 3.7, Educable mentally retarded (EMR). If the hearing officer recommends placement in a transitional classroom, question 203 would be coded 2.0, Junior or transitional classroom.

Facility means the specific building to which the parent, school or hearing officer wishes the child to be assigned. Facility level is rated from 0-7. If any party is requesting homebound instruction or exclusion, the facility level should be coded as 0, none.

For further information on the placement data, please refer back to page 2 of the coding manual. The procedure to be followed in coding material from the recommendation is the same as the procedure you followed in coding material from the body of the case.

Central issues

A central issue is one which is essential or principal to the case. It is an issue which is found to be important to the majority of the parent's or school's presentation. A peripheral issue is one which, while not essential to the presentation, supports the central issue or is, in a minor way, relevant to the proceedings. CODE ONLY CENTRAL ISSUES HERE. Also, remember that in order to be an issue, there must be some dispute. For example, if both the parent and the school agree that the child is educable mentally retarded, then classification is not an issue.

204. Classification is the label attached to a child's social, emotional, mental and/or academic development. Examples of this include "normal", "mentally retarded", "educable", "trainable", and "learning disabled". Each classification denotes a current level of performance. Exclusion is also a form of classification, and anything that is scored "yes" in Question 207 should also be scored "yes" in this question. If classification is mentioned in the recommendation as being a major issue in the school's case, score as yes, (1), if not, score as no, (0).

205. Content/Quality. This issue covers both what the program contains and how good it is. Learning materials, support services, proposed course of study, proposed course of therapy, class size, location of program are all included in this issue as well as such quality factors as the background of the staff, the condition of the equipment, and the number of hours spent in the program. Transportation is also a content/quality issue, and anything that is scored "yes" in Question 206 should also be scored "yes" in this question. If content/quality is mentioned in the recommendation as being a major issue in the school's case, score as yes, (1). If not, score as no, (0).

206. The transportation issue is used when one of the central issues is how the

child is going to get to the program. Usually, the dispute will center around bussing, i.e., the school does not have a bus which can take the child to the program, the school wants the child to use public transportation, transporting the child would be difficult because of the child's disabilitied, and so forth. If the recommendation mentions transportation as a major issue in the school's case, score as yes, (1), if not, score as no (0). Don't forget that a "yes" answer to this question also means a "yes" for question 205.

207. Exclusion should be coded as a central issue only when it is directly addressed in the recommendation. You may find a case in which the child is not in school and is receiving no educational instruction in the home, but there is no mention of the child being excluded. Code this type of case on the issues which are explicitly stated, not on the exclusion issue. If the recommendation specifically mentions exclusion as an issue in the school's case, score as yes, (1), if not, score as no, (0). Don't forget that a "yes" answer to this question also means a "yes" for question 204.

208. The definition mentioned in 204 for classification is to be used in coding central issues in the parent's case as well as the school's. Also, as in the previous series of questions, exclusion is a form of classification and anything that is scored "yes" in question 211 should also be scored "yes" here. If classification is mentioned in the recommendation as being a central issue in the parent's case, score as yes, (1). If not, score as no, (0).

209. The definition mentioned in 205 for content/quality is to be used in coding central issues in the parent's case as well as the school's. Also, as in the previous series of questions, transportation is a form of content/quality and anything that is scored "yes" in question 210 should also be scored "yes" here. Often, when content/ quality is cited as a central issue in the parent's case, the hearing officer will spend some time restating what he thinks are the parent's issues. In other words, he will restate their case in more formal language. For example, the recommendation may state, "Mrs. Jones asserted that

her daughter's attendance at the school for exceptional children was not necessary, that her daughter would be more appropriately educated in a regular school within the school district. This is a statement of what the parent said. There is the implied concern about the stigmatizing effects which accrue from attendance at a special school, particularly when the identity of the school is associated with handicapped, retarded children." This is what the hearing officer felt the parent was trying to say. When this occurs, both the statement and the hearing officer's interpretation of the parent's issue should be considered in deciding both the central issues of the case and the resolution of the case in terms of parent win-loss.

210. The definition mentioned in 206 for transportation is to be used in coding the central issues in the parent's case as well as the school's case. Also, as in the previous series of questions, transportation is a form of content/quality and anything that is scored "yes" here should also be scored "yes" in question 209.

211. The definition mentioned in 207 for exclusion is also to be used for this question. Also, as in the previous series of questions, exclusion is a form of classification and anything that is scored "yes" here should also be scored "yes" in 208.

Additional information on the coding of central issues may be obtained from pages 10,11,22, and 23 of the coding manual. The procedure to be followed in coding this material from the recommendation is the same as the procedure you followed in coding the material from the body of the transcript.

Outcome of the classification issue

212. School win-loss on classification. Select the number on the following scale which most nearly describes the outcome of the classification issue for the school:

0. Not an issue: Classification is not a central issue in the school's case.

1. Complete loss: School loses desired classification.

2. Partial loss: School loses desired classification but some aspect of the chosen classification reflects their position and in this sense recognises the validity of their arguments. For example, if the school is requesting EMR and the child is placed in a normal classroom with EMR math, this would be a modified loss for the school.

3. Partial win: School wins desired classification but must accept some modification of it. For example, if the school is requesting EMR and the child is placed in an EMR class with normal math, this would be a modified win for the school.

4. Complete win: School wins desired classification with no modification.

213. Parent win-loss on classification. Select the number on the following scale which most nearly reflects the outcome of the classification issue for the parent:

0. Not an issue: Classification is not a central issue in the parent's case.

1. Complete loss: Parent loses desired classification.

2. Partial loss: Parent loses desired classification but some aspect of the chosen classification reflects their position and in this sense recognises the validity of their arguments. For example, if the parent is requesting retention in normal classroom and the child is placed in an EMR class with normal math, this would be a modified loss for the parent.

3. Partial win: Parent wins desired classification but must accept some modification of it. For example, if the parent is requesting normal class placement and the child is placed in a normal class with EMR math, this would be a modified win for the parent.

4. Complete win: Parent wins desired classification with no modification.

214. School win-loss on content/quality. Select the number on the following scale which most nearly describes the outcome of the content/quality issue for the school:

0. Not an issue: Content/quality is not a central issue in the school's case.

1. Complete loss: The program and services proposed by the school are ruled completely inappropriate.

2. Partial loss: Most, but not all of the program and services suggested by the school are found to be inappropriate. For example, if the school requests adaptive physical education, sensory training, self-help skills and physical therapy and are granted adaptive physical education, this would be a partial loss for the school. OR, if the school suggests a standard EMR program (implying that because the content and quality of this program meet state standards the program is adequate for the needs of the child), and the hearing officer accepts their recommendation but says that in addition to this the child needs physical therapy, this would be a partial loss for the school.

3. True numerical compromise: The school wins one half of the items which they view as part of the content/quality issue.

4. Partial win: School wins most but not all of the program or services they request for the child. For example, if the school requests adaptive physical education, sensory training, self-help skills and physical therapy and are granted all but the sensory training, this would be a modified win for the school.

5. Complete win: School wins all requested services that are central to their case.

215. Parent win-loss on content/quality. Select the number on the following scale which most nearly describes the outcome of the content/quality issue for the parents:

0. Not an issue: Content/quality is not a central issue in the parent's case.

1. Complete loss: Parent loses all requested services that are central to their case.

2. Partial loss: Parent loses most of the arguably relevant services that they request for the child but are granted some of their desires. For example, if the parent requests vocational training, school counseling, and tutorial assistance and is granted school counseling, this would be a partial loss for the parents.

3. True numerical compromise: The parents win one-half of the items which they view as part of the content/quality issue.

4. Partial win: Parents win most but not all of the program or services they request for the child. For example, if the parents requested vocational training, school counseling and tutorial assistance, and are granted all but vocational training, this would be a partial win for the parents.

5. Complete win: Parents win all requested services that are central to their case.

216. School win/loss on case. Select the number on the following scale which most nearly describes the outcome of the case for the school:

1. Complete loss: School does not get placement or any desired services arguably relevant to their case.

2. Partial loss: If placement is at issue, school loses desired placement and gets some, but not all, of the desired services. If placement is not an issue, school loses most, but not all, of desired services.

3. Compromise: Either a genuine compromise in which there is a balanced decision, or a clear numerical split on content/quality and classification.

4. Partial win: If placement is at issue, the school gets the placement they request plus some but not all additional special services if requested. If placement in not at issue, they get most, but not all of the requested services arguably relevant to the child's needs.

5. Complete win: School wins placement and the majority of the desired services.

217. Parent win/loss on case. Select the number on the following scale which most nearly describes the outcome of the case for the parents:

1. Complete loss: Parent does not get placement or any desired services arguably relevant to their case.

2. Partial loss: If placement is at issue, parent loses desired placement but gets some services If placement is not at issue, parent loses most, but not all, desired services.

3. Compromise: Either a genuine compromise in which there is a balanced decision, or a clear numerical split between content/quality and classification.

4. Partial win: If placement is at issue, parent gets requested placement plus some, but not all, requested services arguably relevant to their concept of the child's needs.

5. Complete win: Parent wins desired placement and the majority of the desired services.

APPENDIX VI

THE ARGUMENTS USED BY PARENTS IN THE FIRST 168 DUE PROCESS HEARINGS UNDER PARC[1]

Argument[1]	#of Times used	% of Total Number of Arguments	% of Cases in Which Argument was used
Intellectual status of the child			
I.Q. score lower than placement warrants	2	0	1
I.Q. score higher than placement warrants	13	3	8
Home performance is better than indicated by I.Q. score	20	4	12
Home performance is better than school performance	18	4	11
Child's report card grades have been good	7	1	4
Testing procedure was inappropriate for child	7	1	4
Other	6	1	4
Social Status of the Child			
Social adjustment at home better than that reported by school	15	3	9
Child's adjustment in community better than reported by school	16	3	10
Other	2	0	1
Stigmatization, labeling			
Parent is concerned about child's stigmatization	38	8	23
Child is concerned about his/her stigmatization	14	3	8
Parent has heard that any classes for retarded children are bad	8	2	5
Other	2	0	1

Argument	# of Times Used	% of Total Number of Arguments	% of Cases Using Argument
Inadequacies of present placement			
Child is fearful of other children in classroom	3	1	2
Child is not getting individual attention he/she needs	8	2	5
Parent believes child is learning nothing in present placement	12	2	7
Other children in classroom are teaching him/her bad habits	3	1	2
Child is unable to keep up with work in present placement	0	0	0
Child has regressed in present placement	8	2	5
Parent (or child) does not like teacher	0	0	0
Children in present placement are significantly different from child	6	1	4
Parent has had no previous indication that child is not keeping up with work	7	1	4
With a little extra help at home, child could keep up with class work	5	1	3
Parent is concerned with child's safety	8	2	5
Child is not getting necessary remedial services	6	1	4
School is not meeting all of the child's exceptionalities	6	1	4
Staff is inadequate and cannot properly handle the program	3	1	2
Other	6	1	4

Argument	#of Times used	% of Total Number of Arguments	% of Cases Using Argument
Inadequacies of proposed placement			
Child will not learn anything in proposed program	38	8	23
Children in proposed program would teach him/her bad habits	7	1	4
Child would be unable to keep up with work in proposed program	3	1	2
Child would regress in proposed placement	23	5	14
Children in proposed placement are significantly different from child	16	3	10
Proposed placement will not meet all of child's exceptionalities	26	5	15
Proposed staff is inadequate and cannot properly handle program	10	2	6
Child will not get necessary remedial services	14	3	8
Other	13	3	8
Location, transportation, and class size			
Present placement is too far away	4	1	2
Proposed placement is too far away	10	2	6
Parent objects to location of proposed class (reasons besides distance), old building, etc.	4	1	2
Parent objects to location of present class (reasons besides distance)	1	0	1
No way to transport child to program	2	0	1
Bus trip is too long	4	1	2
Child is being victimized on the bus	1	0	1
Bus arrangements are inadequate	3	1	2
Too many children in the class	4	1	2
Other	0	0	0

Argument	# of Times Used	% of Total Number of Arguments	% of Cases Using Argument
General arguments			
Present program does not meet child's needs	12	2	7
Proposed program does not meet child's needs	39	8	23
Other	1	0	1
Inadequacy of any school program			
Private placement is more suited to child's needs than district or I.U. placement	13	3	8
Other	1	0	1
Total	498	100%	

1. For coding methodology, see appendix ,p. above

APPENDIX VII

THE ARGUMENTS USED BY SCHOOLS IN THE FIRST 178 DUE PROCESS HEARINGS UNDER PARC

Argument[1]	# of Times Used	% of Total Number of Arguments	% of Cases in which Argument was used
Intellectual status of the child			
I.Q. score lower than placement warrants	76	18	45
I.Q. score higher than placement warrants	0	0	0
Child is far behind in regular work	63	15	38
Other	1	0	1
ocial status of the child			
Discipline (child disrupts class)	27	7	16
Child cannot get along with other children (aggressive)	12	3	7
Child cannot get along with other children (withdrawn)	6	1	4
Child's misbehavior outside classroom	8	2	5
Other	5	1	3
tigmatization, labeling			
Child will be ridiculed if he/she stays in present placement	13	3	8
Other	0	0	0
dequacies of present placement			
Child's physical handicap	5	1	3
Child would require so much of teacher's attention, others in the classroom would suffer	19	5	11
Child is in most appropriate placement for disability	14	3	8
School is concerned with safety factors	4	1	2
Other	2	0	1

Argument	# of Times Used	% of Total Number of Arguments	% of Cases Using Argument
Adequacies of proposed placement			
Child has regressed in present placement	1	0	1
Child needs more individualized instruction	33	8	20
Child has made no progress in present placement	12	3	7
Other	3	1	2
Location, transportation, class size			
No bus available to transport child	2	0	1
Building in unacceptable location	0	0	0
No room for child in the class	0	0	0
Other	2	0	1
General arguments			
Present placement is the most appropriate for the child	13	3	8
Proposed program is adequate to meet the needs of the child	45	11	27
School is offering I.U. or district placement to child presently not in the public school system	18	4	11
Other	2	0	1
Inadequacy of any school program			
Child's developmental status requiries something the school cannot provide	15	4	9
School does not have a suitable program	13	3	8
Other	0	0	0
	414	100	

1. For coding methodology, see appendix ,p. above.